

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2016 to April 29, 2016

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 29, 2016

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

Augusta, Maine
2016

tracks and to agricultural fair licensees that conduct live racing based on days raced during extended meets up to a maximum of 100 days raced during extended meets per year and until such time as a new commercial track begins operation. The payment to a commercial track or agricultural fair is determined by dividing the amount in the fund by 150 and multiplying the result by the number of days raced by that commercial track or agricultural fair. An agricultural fair must receive its payment on May 30th before extended meets are held based on assigned dates for extended meets for that agricultural fair. An adjustment must be made no later than the January 30th following the extended meets that results in payment to an agricultural fair based on days actually raced during extended meets by that agricultural fair. Any amount remaining in the fund on January 30th after payments are made to commercial tracks and agricultural fairs must be transferred to the operating account of the commission under section 267-A.

For the purposes of this subsection, "region" is determined by measuring a distance of 50 miles from the center of the racing track along the most commonly used roadway, as determined by the Department of Transportation, drawing a circle around the center of the racing track using that 50-mile measurement and excluding those municipalities or unorganized territories that do not have boundaries contained entirely by that circle.

4. Natural disaster exception. If the commission determines that a commercial track is unable to conduct harness racing due to a natural disaster and that the commercial track licensee cannot immediately relocate to another venue, the commercial track licensee may be allowed up to 6 months to repair, rebuild or relocate at the discretion of the commission and, if the commercial track licensee repairs, rebuilds or relocates within the time frame allowed, the commission may authorize the commercial track licensee to again receive distributions in accordance with subsection 2. If the commercial track licensee is unable to repair, rebuild or relocate during this 6-month time frame due to circumstances that are determined by the commission to be outside of the control of the commercial track licensee, the commission may grant a reasonable extension beyond 6 months. During any time that is granted by the commission under this subsection to the commercial track licensee in order to repair, rebuild or relocate, the distribution formula established under subsection 3 must be in effect.

Sec. 4. 8 MRSA §1036, sub-§2, ¶H, as amended by PL 2011, c. 358, §4, is further amended to read:

H. Four percent of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Fund to Encourage Racing at Maine's Commercial Tracks,

~~established in section 299; however, the payment required by this paragraph is terminated when all commercial tracks have obtained a license to operate slot machines in accordance with this chapter, in which case, that 4% of the net slot machine income must be credited to the General Fund as undedicated revenue;~~

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

Effective April 24, 2016.

CHAPTER 494

H.P. 1118 - L.D. 1643

An Act To Correct Errors and Inconsistencies in the Laws of Maine

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

Whereas, acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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:

PART A

Sec. A-1. 1 MRSA §408-A, sub-§4, as amended by PL 2015, c. 248, §1 and c. 249, §1, is repealed and the following enacted in its place:

4. Refusals; denials. If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide, within 5 working days of the receipt of the request for inspection or copying, written notice of the denial, stating the reason for the denial or the expectation that the request will be denied in full or in part

following a review. A request for inspection or copying may be denied, in whole or in part, on the basis that the request is unduly burdensome or oppressive if the procedures established in subsection 4-A are followed. Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409.

Sec. A-2. 3 MRSA §959, sub-§1, ¶K, as amended by PL 2013, c. 505, §1, is further amended to read:

K. The joint standing committee of the Legislature having jurisdiction over marine resource matters shall use the following list as a guideline for scheduling reviews:

- (1) Atlantic States Marine Fisheries Commission in 2021;
- (2) Department of Marine Resources in 2021; and
- (4) Lobster Advisory Council in 2015; ~~and,~~
- (5) ~~Maine Sardine Council in 2015.~~

Sec. A-3. 5 MRSA §12004-I, sub-§5-B, as amended by PL 1997, c. 742, §1, is repealed.

Sec. A-4. 7 MRSA §3939-A, sub-§2, as amended by PL 2015, c. 209, §1 and c. 223, §9, is repealed and the following enacted in its place:

2. Detrimental to health. If a licensed veterinarian or licensed veterinary technician as defined in Title 32, section 4853 determines that a dog or cat is too sick or injured or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered within 30 days of placement, the animal shelter shall collect a deposit of not less than \$50 and not more than \$150 at the time of sale or placement. The animal shelter shall determine the amount of the deposit based on the cost of spaying or neutering within the geographic area served by the animal shelter. A person accepting ownership of the dog or cat under this subsection shall sign an agreement to have the animal sterilized as soon as it is medically advisable.

Upon receipt of proof of sterilization, the animal shelter shall immediately and fully refund the deposit.

Sec. A-5. 12 MRSA §6723, sub-§1, as enacted by PL 2007, c. 607, Pt. A, §7, is amended to read:

1. Drag limit. ~~Except as provided by rule pursuant to section 6727-A, subsection 2, a~~ A person may not fish for or take scallops with any one combination of scallop drags in excess of 8 feet, 6 inches in width, measured from the extreme outside edge of the mouth of the drag or drags, in Blue Hill Bay above or north of a line drawn from Bass Harbor Head in the Town of Tremont westerly to Pond Island and thence to Naskeag Point in the Town of Brooklin.

Sec. A-6. 12 MRSA §11108, sub-§1, as amended by PL 2015, c. 281, Pt. E, §3 and c. 301, §11, is repealed and the following enacted in its place:

1. On certain land. Notwithstanding section 11109, subsection 1 as it applies to this subchapter, and subject to all other applicable laws and rules, a resident and a member of the resident's immediate family, as long as the hunter's license to hunt is not under suspension or revocation, may hunt without a license, including, but not limited to, an archery hunting license, a crossbow permit and a muzzle-loading permit, on a single plot of land:

A. To which they are legally entitled to possession;

B. On which they are actually domiciled;

C. That is used exclusively for agricultural purposes; and

D. That is in excess of 10 acres.

Sec. A-7. 12 MRSA §11109, sub-§9, as amended by PL 2015, c. 245, §4 and c. 281, Pt. E, §6, is repealed and the following enacted in its place:

9. Crossbow permits and fees. Crossbow permits and fees are as follows:

A. A resident crossbow permit is \$26;

B. A nonresident crossbow permit is \$56; and

C. An alien crossbow permit is \$80.

Sec. A-8. 12 MRSA §12152, sub-§3, as amended by PL 2015, c. 301, §27 and repealed and replaced by c. 374, §6, is repealed and the following enacted in its place:

3. Issuance. The commissioner may issue a permit to a person permitting the introduction, importation, possession and use of wildlife in accordance with the provisions of subsection 5.

Sec. A-9. 12 MRSA §12506, sub-§8, as enacted by PL 2015, c. 298, §8, is amended to read:

8. Reports required. A person issued a permit under this section shall submit a completed report on forms provided by the department with the following information: water name and location, including the town and county of waters fished; date fished; total catch; gear type and quantity; number of crew; amount of time the gear is set; total gear in the water; water depth; total time the boat is on the water; species and pounds harvested; license number of the dealer the catch was sold to or the disposition of the catch; town where the catch was brought to shore; boat registration number; vessel name; and the harvester's name, telephone number and permit number. A holder of an eel permit must submit the report by the date specified on the permit. A holder of a sucker, lamprey or yellow perch permit must submit the report by December 31st

of each year. All data submitted as part of the report are for scientific purposes only and are confidential and not part of a public record within the meaning of Title 1, chapter 13, subchapter 1, except that the commissioner may disclose data collected under this subsection if ~~that data are~~ released in a form that is statistical or general in nature.

If a person issued a permit under this section fails to provide information required under this section, the commissioner may refuse to renew or may revoke that person's permit. If a person becomes ineligible for a permit as a result of a violation of this section, that person may request a hearing in accordance with section 10905.

Sec. A-10. 14 MRSA §6001, sub-§6, ¶F, as enacted by PL 2015, c. 293, §5, is amended to read:

F. Nothing in this section prohibits a landlord from instituting a forcible entry and detainer action against the tenant of the premises who ~~perpetuated~~ perpetrated the domestic violence, sexual assault or stalking or obtaining a criminal no trespass order against a nontenant who ~~perpetuates~~ perpetrates such violence or abuse at the premises.

Sec. A-11. 19-A MRSA §1653, sub-§2, ¶D, as amended by PL 2009, c. 345, §1, is further amended to read:

D. The order of the court awarding parental rights and responsibilities must include the following:

- (1) Allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child as provided in subsection 3. An award of shared parental rights and responsibilities may include either an allocation of the child's primary residential care to one parent and rights of parent-child contact to the other parent, or a sharing of the child's primary residential care by both parents. If either or both parents request an award of shared primary residential care and the court does not award shared primary residential care of the child, the court shall state in its decision the reasons why shared primary residential care is not in the best interest of the child;
- (2) Conditions of parent-child contact in cases involving domestic abuse as provided in subsection 6;
- (3) A provision for child support as provided in subsection 8 or a statement of the reasons for not ordering child support;
- (4) A statement that each parent must have access to records and information pertaining to a minor child, including, but not limited to, medical, dental and school records and other

information on school activities, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access;

(5) A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 7; and

(6) A statement of the definition of shared parental rights and responsibilities contained in section 1501, subsection 5, if the order of the court awards shared parental rights and responsibilities; ~~and.~~

~~(7) If the court appoints a parenting coordinator pursuant to section 1659, a parenting plan defining areas of parental rights and responsibilities within the scope of the parenting coordinator's authority.~~

An order modifying a previous order is not required to include provisions of the previous order that are not modified.

Sec. A-12. 20-A MRSA §7408, sub-§2, as amended by PL 2011, c. 683, §10, is further amended to read:

2. Enrollment. The executive director shall work with ~~superintendents from other~~ school administrative units, pursuant to section 7405, ~~subsection 1~~ 7405-A, to enroll students.

Sec. A-13. 20-A MRSA §15688, sub-§3-A, ¶B, as amended by PL 2007, c. 240, Pt. XXXX, §30, is further amended to read:

B. ~~Except as provided in paragraph B-1, for~~ For a school administrative district, community school district or regional school unit composed of more than one municipality, each municipality's contribution to the total cost of education is the lesser of:

- (1) The municipality's total cost as described in subsection 2; and
- (2) The total of the full-value education mill rate calculated in section 15671-A, subsection 2 multiplied by the property fiscal capacity of the municipality.

Sec. A-14. 22 MRSA §42, sub-§3-A, as amended by PL 1999, c. 86, §1 and c. 547, Pt. B, §78 and affected by c. 547, Pt. B, §80, is further amended to read:

3-A. Licensing of persons to evaluate soils for subsurface wastewater disposal systems. The de-

partment shall adopt rules providing for professional qualification and competence, ethical standards, licensing and relicensing and revocation of licenses of persons to evaluate soils for the purpose of designing subsurface wastewater disposal systems. The hearings provided for in subsection 3 must include consideration of the adoption or change of those rules.

The department shall investigate or cause to be investigated all cases or complaints of noncompliance with or violations of this section and the rules adopted pursuant to this section. The department has the authority to grant or amend, modify or refuse to issue or renew a license in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter ~~5~~ 5. The District Court has the exclusive jurisdiction to suspend or revoke the license of any person who is found guilty of noncompliance with or violation of the rules adopted pursuant to this subsection or subsection 3.

The department may charge applicants no more than \$100 for examination to become a licensed site evaluator. The department shall by rule charge a biennial site evaluator license fee of not more than \$150. A licensed site evaluator who is employed by the department to administer this section and does not practice for the public is exempt from the ~~license~~ license fee requirement. Appropriate rules must be adopted by the department defining the appropriate financial procedure. The fees are paid to the Treasurer of State to be maintained as a permanent fund and used by the department for carrying out its plumbing and subsurface wastewater disposal rules and site evaluation program.

Sec. A-15. 22 MRSA §1717, sub-§2, as amended by PL 2015, c. 196, §4 and c. 299, §4, is repealed and the following enacted in its place:

2. Registration of personal care agencies and placement agencies. Beginning August 1, 1998, a personal care agency not otherwise licensed by the department shall register with the department. Beginning January 1, 2008, a placement agency not otherwise licensed by the department shall register with the department. The department shall adopt rules establishing the annual registration fee, which must be between \$25 and \$250. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-16. 22 MRSA §1812-G, sub-§6, as amended by PL 2015, c. 196, §9 and repealed and replaced by c. 299, §9, is repealed and the following enacted in its place:

6. Prohibited employment based on disqualifying offenses. An individual with a disqualifying offense, including a substantiated complaint or a disqualifying criminal conviction, may not work as a certified nursing assistant or a direct care worker, and an

employer is subject to penalties for employing a disqualified or otherwise ineligible person in accordance with applicable federal or state laws.

Sec. A-17. 22 MRSA §1812-G, sub-§6-A, ¶B, as enacted by PL 2015, c. 196, §9 and c. 299, §10, is repealed and the following enacted in its place:

B. Pursuant to sections 1717, 1724, 2137, 2149-A, 7706, 8606 and 9005 and Title 34-B, section 1225, licensed, certified or registered providers shall secure and pay for a background check prior to hiring an individual who will work in direct contact with clients, patients or residents, including a certified nursing assistant or a direct care worker.

Sec. A-18. 22 MRSA §1812-G, sub-§6-A, ¶D, as enacted by PL 2015, c. 196, §9 and c. 299, §10, is repealed and the following enacted in its place:

D. A person or other legal entity that is not otherwise licensed by the department and that employs or places a certified nursing assistant or direct care worker to provide services allowing direct access shall secure and pay for a background check in accordance with state law and rules adopted by the department.

Sec. A-19. 22 MRSA §2138, first ¶, as enacted by PL 2015, c. 196, §11 and c. 299, §19, is repealed and the following enacted in its place:

A temporary nurse agency shall conduct a comprehensive background check for direct access personnel, as defined in section 1717, subsection 1, paragraph A-2, in accordance with state law and rules adopted by the department and is subject to the employment restrictions set out in section 1812-G and other applicable federal and state laws when hiring, employing or placing direct access personnel, including a certified nursing assistant or a direct care worker.

Sec. A-20. 22 MRSA §2149-A, sub-§2, as amended by PL 2015, c. 196, §12 and repealed and replaced by c. 299, §20, is repealed and the following enacted in its place:

2. Prohibited employment based on disqualifying offenses. A home health care provider shall conduct a comprehensive background check for direct access personnel, as defined in section 1717, subsection 1, paragraph A-2, in accordance with state law and rules adopted by the department and is subject to the employment restrictions set out in section 1812-G and other applicable federal and state laws when hiring, employing or placing direct access personnel, including a certified nursing assistant or a direct care worker.

The department may adopt rules necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-21. 22 MRSA §4008, sub-§2, ¶K, as amended by PL 2015, c. 194, §2 and c. 198, §2, is further amended to read:

K. The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B; ~~and~~

Sec. A-22. 22 MRSA §4008, sub-§2, ¶L, as enacted by PL 2015, c. 194, §3 and c. 198, §3, is repealed and the following enacted in its place:

L. A person, organization, employer or agency for the purpose of carrying out background or employment-related screening of an individual who is or may be engaged in:

(1) Child-related activities or employment; or

(2) Activities or employment relating to adults with intellectual disabilities, autism, related conditions as set out in 42 Code of Federal Regulations, Section 435.1010 or acquired brain injury; and

Sec. A-23. 22 MRSA §4008, sub-§2, ¶M is enacted to read:

M. The personal representative of the estate of a child named in a record who is reported to be abused or neglected.

Sec. A-24. 22 MRSA §4310, first ¶, as amended by PL 2013, c. 368, Pt. OO, §9, is further amended to read:

Whenever an eligible person becomes an applicant for general assistance and states to the administrator that the applicant is in an emergency situation and requires immediate assistance to meet basic necessities, the overseer shall, pending verification, issue to the applicant either personally or by mail, as soon as possible but in no event later than 24 hours after application, sufficient benefits to provide the basic necessities needed immediately by the applicant, as long as the following conditions are met.

Sec. A-25. 22 MRSA §7851, sub-§4, as amended by PL 2015, c. 196, §14 and c. 299, §22, is repealed and the following enacted in its place:

4. Prohibited employment based on disqualifying offenses. A licensed assisted housing program shall conduct a comprehensive background check for direct access personnel, as defined in section 1717, subsection 1, paragraph A-2, in accordance with state law and rules adopted by the department and is subject to the employment restrictions set out in section 1812-G and other applicable federal and state laws

when hiring, employing or placing direct access personnel, including a certified nursing assistant or a direct care worker.

The department may adopt rules necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-26. 22 MRSA §8704, sub-§7, as amended by PL 2013, c. 560, §3, is further amended to read:

7. Annual report. The board shall prepare and submit an annual report on the operation of the organization ~~and the Maine Health Data Processing Center as authorized in Title 10, section 681~~, including any activity contracted for by the organization ~~or contracted services provided by the center~~, with resulting net earnings, as well as on collaborative activities with other health data collection and management organizations and stakeholder groups on their efforts to improve consumer access to health care quality and price information and price transparency initiatives, to the Governor and the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters no later than February 1st of each year. The report must include an annual accounting of all revenue received and expenditures incurred in the previous year and all revenue and expenditures planned for the next year. The report must include a list of persons or entities that requested data from the organization in the preceding year with a brief summary of the stated purpose of the request.

Sec. A-27. 23 MRSA §2103, as enacted by PL 1971, c. 288, is amended to read:

§2103. Lost or unrecorded boundaries

When a highway survey has not been properly recorded, or preserved or the termination and boundaries cannot be ascertained, the board of selectmen or municipal officers of any municipality may use and control for highway purposes 1 1/2 rods on each side of the center of the traveled portion of such way.

When any real estate is damaged by the use and control for highway purposes of such land outside the existing improved portion and within the limits of 1 1/2 rods on each side of the center of the traveled portion, they shall award damages to the owner as provided in section ~~3005~~ 3029.

Sec. A-28. 24-A MRSA §2762, sub-§2, ¶¶A and B, as enacted by PL 2007, c. 452, §2, are amended to read:

A. The hearing loss must be documented by a physician or audiologist licensed pursuant to Title 32, chapter ~~77~~ 137.

B. The hearing aid must be purchased from an audiologist licensed pursuant to Title 32, chapter ~~77~~ or a hearing aid dealer licensed pursuant to Title 32, chapter ~~23-A~~ 137.

Sec. A-29. 24-A MRSA §2847-O, sub-§2, ¶¶A and B, as reallocated by PL 2007, c. 695, Pt. A, §29, are amended to read:

A. The hearing loss must be documented by a physician or audiologist licensed pursuant to Title 32, chapter ~~77~~ 137.

B. The hearing aid must be purchased from an audiologist licensed pursuant to Title 32, chapter ~~77~~ or a hearing aid dealer licensed pursuant to Title 32, chapter ~~23-A~~ 137.

Sec. A-30. 24-A MRSA §4255, sub-§2, ¶¶A and B, as reallocated by PL 2007, c. 695, Pt. A, §30, are amended to read:

A. The hearing loss must be documented by a physician or audiologist licensed pursuant to Title 32, chapter ~~77~~ 137.

B. The hearing aid must be purchased from an audiologist licensed pursuant to Title 32, chapter ~~77~~ or a hearing aid dealer licensed pursuant to Title 32, chapter ~~23-A~~ 137.

Sec. A-31. 28-A MRSA §453, sub-§2-A, as amended by PL 2015, c. 128, §1 and c. 221, §1, is repealed and the following enacted in its place:

2-A. Limitation on number of agency liquor stores. Beginning July 1, 2009, the bureau may license up to 10 agency liquor stores in a municipality with a population over 45,000; up to 9 agency liquor stores in a municipality with a population over 30,000 but less than 45,001; up to 8 agency liquor stores in a municipality with a population over 20,000 but less than 30,001; up to 5 agency liquor stores in a municipality with a population of at least 10,001 but less than 20,001; up to 4 agency liquor stores in a municipality with a population of at least 5,001 but less than 10,001; up to 3 agency liquor stores in a municipality with a population of at least 2,000 but less than 5,001; and one agency liquor store in a municipality where the population is less than 2,000. The bureau may issue one additional liquor store license beyond those otherwise authorized by this subsection in a municipality with a population of less than 10,000. The bureau may consider the impact of seasonal population or tourism and other related information provided by the municipality requesting an additional agency liquor store license.

Nothing in this subsection may be construed to reduce the number of agency stores the bureau may license in a municipality as of June 30, 2009.

Sec. A-32. 28-A MRSA §709, sub-§2, ¶K, as amended by PL 2015, c. 142, §1 and c. 214, §4, is repealed and the following enacted in its place:

K. Donations authorized under section 708-C;

Sec. A-33. 28-A MRSA §709, sub-§2, ¶L, as enacted by PL 2015, c. 142, §2 and c. 214, §5, is repealed and the following enacted in its place:

L. Licensees offering complimentary samples of wine under section 1055; or

Sec. A-34. 28-A MRSA §709, sub-§2, ¶M is enacted to read:

M. Product supplied by licensees authorized under section 1052-D for the purposes of providing taste-testing samples under a taste-testing event license.

Sec. A-35. 30-A MRSA §6054, sub-§2, as enacted by PL 2013, c. 269, Pt. B, §2, is amended to read:

2. Funding. ~~Notwithstanding section 85, subsection 1, beginning~~ Beginning July 1, 2014, there must be deposited directly into the fund any amounts received pursuant to Title 28-A, section 90 and Title 22-A, section 216 and any other money or funds transferred or made available to the bond bank only for the purposes of the fund from any other source including without limitation amounts required to be deposited in the fund by the terms of any ancillary obligation or other agreement related to liquor operation revenue bonds.

Sec. A-36. 32 MRSA §17201, 2nd ¶, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, is amended to read:

Appointments are for 3-year terms. Appointments of members must comply with Title 10, section ~~608009~~. A board member may be removed by the Governor for cause.

Sec. A-37. 34-A MRSA §1403, sub-§2, ¶D, as amended by PL 2015, c. 267, Pt. VVV, §1 and repealed by c. 291, §3, is repealed.

Sec. A-38. 34-B MRSA §1225, first ¶, as amended by PL 2015, c. 196, §17 and c. 299, §28, is repealed and the following enacted in its place:

Beginning October 1, 2010, a facility or health care provider subject to the licensing provisions of section 1203-A, prior to hiring an individual who will work in direct contact with a consumer or who has direct access to a consumer's property, personally identifiable information, financial information or resources, shall obtain a comprehensive background check in accordance with applicable federal and state laws. The comprehensive background check must include, at a minimum, criminal history record information from the Department of Public Safety, State

Bureau of Identification. A facility or provider licensed under section 1203-A is subject to the employment restrictions set out in Title 22, section 1812-G and other applicable federal and state laws when employing direct access personnel, as defined in Title 22, section 1717, subsection 1, paragraph A-2. The facility or health care provider shall pay for the criminal background check required by this section.

Sec. A-39. 35-A MRSA §10110, sub-§2, ¶B, as amended by PL 2013, c. 369, Pt. A, §18, is further amended to read:

B. The trust, with regard to funds available to the trust under this section, shall:

(1) Target at least 10% of funds for electricity conservation collected under former subsection 4 or subsection 4-A or \$2,600,000, whichever is greater, to programs for low-income residential consumers, as defined by the board by rule;

(2) Target at least 10% of funds for electricity conservation collected under former subsection 4 or subsection 4-A or \$2,600,000, whichever is greater, to programs for small business consumers, as defined by the board by rule; and

(3) To the greatest extent practicable, apportion remaining funds among customer groups and geographic areas in a manner that allows all other customers to have a reasonable opportunity to participate in one or more conservation programs.

Sec. A-40. 35-A MRSA §10110, sub-§6, as amended by PL 2013, c. 369, Pt. A, §22, is further amended to read:

6. Transmission and subtransmission voltage level. After July 1, 2007, electricity customers receiving service at transmission and subtransmission voltage levels are not eligible for conservation programs undertaken under this section, and those customers are not required to pay in rates ~~any amount associated with the assessment imposed on transmission and distribution utilities under subsection 4, or any amount associated with any procurement of energy efficiency resources by transmission and distribution utilities ordered under subsection 4-A. To remove the amount of the assessment under subsection 4, the commission shall reduce the rates of such customers by 0.145 cent per kilowatt hour.~~ For the purposes of this section, "transmission voltage levels" means 44 kilovolts or more, and "subtransmission voltage levels" means 34.5 kilovolts.

Sec. A-41. 36 MRSA §191, sub-§2, ¶YY, as amended by PL 2015, c. 300, Pt. A, §6 and c. 344, §6, is further amended to read:

~~YY. The inspection and disclosure of information by the board to the extent necessary to conduct appeals procedures pursuant to this Title and issue a decision on an appeal to the parties. The board may make available to the public redacted decisions that do not disclose the identity of a taxpayer or any information made confidential by state or federal statute; and~~

Sec. A-42. 36 MRSA §191, sub-§2, ¶ZZ, as enacted by PL 2015, c. 300, Pt. A, §7 and c. 344, §7, is repealed and the following enacted in its place:

ZZ. The disclosure by the State Tax Assessor to a qualified Pine Tree Development Zone business that has filed a claim for reimbursement under section 2016 of information related to any insufficiency of the claim, including records of a contractor or subcontractor that assigned the claim for reimbursement to the qualified Pine Tree Development Zone business and records of the vendors of the contractor or subcontractor; and

Sec. A-43. 36 MRSA §191, sub-§2, ¶AAA is enacted to read:

AAA. The disclosure of information by the State Tax Assessor or the Associate Commissioner for Tax Policy to the Office of Program Evaluation and Government Accountability under Title 3, section 991 for the review and evaluation of tax expenditures pursuant to Title 3, chapter 37.

Sec. A-44. 36 MRSA §1752, sub-§14, ¶B, as amended by PL 2015, c. 150, §1 and c. 300, Pt. A, §13, is repealed and the following enacted in its place:

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;

(3) The price of property returned by customers, when the full price is refunded either in cash or by credit;

(4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;

(8) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival;

(9) Any amount charged for the disposal of used tires;

(10) Any amount charged for a paper or plastic single-use carry-out bag; or

(11) Any charge, deposit, fee or premium imposed by a law of this State.

Sec. A-45. 36 MRSA §5125, sub-§3, ¶C, as amended by PL 2015, c. 267, Pt. DD, §15, is further amended to read:

C. Reduced by any amount of deduction attributable to income taxable to financial institutions under chapter 819; ~~and~~

Sec. A-46. 36 MRSA §5125, sub-§3, ¶D, as amended by PL 2015, c. 267, Pt. DD, §16 and c. 340, §1, is repealed and the following enacted in its place:

D. Reduced by any amount attributable to interest or expenses incurred in the production of income exempt from tax under this Part; and

Sec. A-47. 36 MRSA §5125, sub-§3, ¶E, as repealed by PL 2015, c. 267, Pt. DD, §17 and amended by c. 340, §2 and affected by c. 340, §5, is repealed.

Sec. A-48. 36 MRSA §5217-D, sub-§1, ¶B-1, as amended by PL 2015, c. 300, Pt. A, §42 and c. 328, §5, is repealed and the following enacted in its place:

B-1. "Financial aid package" means financial aid obtained by a student for attendance at an accredited Maine community college, college or university. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2013, the financial aid package may include financial aid obtained for up to 30 credit hours of course work at an accredited non-Maine community college, college or university earned prior to transfer to an accredited Maine community college, college or university, if the 30 credit hours were earned after December 31, 2007 and the transfer occurred after December 31, 2012. For purposes of a qualified individual claiming a credit under this section for tax years

beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (b), the financial aid package may include financial aid obtained by a student for attendance at an accredited non-Maine community college, college or university after December 31, 2007. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (c), the financial aid package may include financial aid obtained by a student for attendance at an accredited Maine college or university after December 31, 2007. For purposes of an employer claiming a credit under this section for tax years beginning on or after January 1, 2013, the financial aid package may include financial aid obtained by a qualified employee for attendance at an accredited non-Maine community college, college or university. The financial aid package may include private loans or less than the full amount of loans under federal programs, depending on the practices of the accredited Maine or non-Maine community college, college or university. Loans are includable in the financial aid package only if entered into prior to July 1, 2023.

Sec. A-49. 38 MRSA §341-G, sub-§1, as amended by PL 2015, c. 267, Pt. NNNN, §1 and c. 319, §7, is repealed and the following enacted in its place:

1. Transfer funds. The amount transferred from each fund must be proportional to that fund's contribution to the total special revenues received by the department under chapter 2, subchapter 2; section 551; chapter 13, subchapter 4; and section 1364. Any funds received by the board from the General Fund must be credited towards the amount owed by the Maine Environmental Protection Fund, chapter 2, subchapter 2.

Sec. A-50. P&SL 2011, c. 6, §1 is amended to read:

Sec. 1. Territorial limits; corporate name. Pursuant to the Maine Revised Statutes, Title 35-A, section 6403, subsection 1, paragraphs A and B and subject to section § 6 of this Act, the territory and the inhabitants of the Town of Madison and the Town of Anson constitute a standard water district under the name "Anson and Madison Water District," referred to in this Act as "the district."

PART B

Sec. B-1. 5 MRSA §13070-J, sub-§1, ¶E, as enacted by PL 1999, c. 768, §1, is amended to read:

E. "Economic development proposal" means proposed legislation that establishes a new program or that expands an existing program that:

(1) Is intended to encourage significant business expansion or retention in the State; and

(2) Contains a tax expenditure, as defined in section ~~4664~~ 1666, or a budget expenditure with a cost that is estimated to exceed \$100,000 per year.

Sec. B-2. 30-A MRSA §4741, sub-§17, as amended by PL 1993, c. 175, §7, is further amended to read:

17. Comprehensive housing affordability strategy coordinator. The Maine State Housing Authority is designated the comprehensive housing affordability strategy coordinator for the State and has the power to prepare and submit on behalf of the State the annual comprehensive housing affordability strategy called for in the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625 (1990) and to undertake all monitoring and certification procedures required under that law. The Maine State Housing Authority shall represent the State in carrying out the HOME Investment Partnerships Program created by the Cranston-Gonzalez National Affordable Housing Act; and

Sec. B-3. 30-A MRSA §4741, sub-§18, as amended by PL 2007, c. 562, §6, is further amended to read:

18. State designee for homeless programs. The Maine State Housing Authority is designated the coordinating agency for the State for programs dealing with homeless persons and may apply for, receive, distribute and administer federal, state and other funds on behalf of the State for homeless programs including, without limitation, the Emergency Community Services Homeless Grant Program and the programs authorized pursuant to the federal Stewart B. McKinney Homeless Assistance Act, Public Law 100-77, (1987), as amended; and

Sec. B-4. 30-A MRSA §4741, sub-§19 is enacted to read:

19. State designee for National Housing Trust Fund. The Maine State Housing Authority is designated as the entity to receive and allocate funds from the National Housing Trust Fund established by the federal Housing and Economic Recovery Act of 2008.

Sec. B-5. 36 MRSA §5122, sub-§1, ¶JJ, as amended by PL 2015, c. 388, Pt. A, §4, is amended to read:

JJ. For tax years beginning on or after January 1, 2016, an amount equal to the taxpayer base multiplied by the following fraction:

(1) For single individuals and married persons filing separate returns, the numerator is the taxpayer's Maine adjusted gross income less \$70,000, except that the numerator may

not be less than zero, and the denominator is \$75,000. In no case may the fraction contained in this subparagraph produce a result that is more than one. The \$70,000 amount used to calculate the numerator in this subparagraph must be adjusted for inflation in accordance with section 5403, subsection ~~3~~ 4;

(2) For individuals filing as heads of households, the numerator is the taxpayer's Maine adjusted gross income less \$105,000, except that the numerator may not be less than zero, and the denominator is \$112,500. In no case may the fraction contained in this subparagraph produce a result that is more than one. The \$105,000 amount used to calculate the numerator in this subparagraph must be adjusted for inflation in accordance with section 5403, subsection ~~3~~ 4; or

(3) For individuals filing married joint returns or surviving spouses, the numerator is the taxpayer's Maine adjusted gross income less \$140,000, except that the numerator may not be less than zero, and the denominator is \$150,000. In no case may the fraction contained in this subparagraph produce a result that is more than one. The \$140,000 amount used to calculate the numerator in this subparagraph must be adjusted for inflation in accordance with section 5403, subsection ~~3~~ 4.

For purposes of this paragraph, "taxpayer base" means either the taxpayer's applicable standard deduction amount for the taxable year determined under section 5124-B or, if itemized deductions are claimed, the taxpayer's itemized deductions claimed for the taxable year determined under section 5125; and

Sec. B-6. P&SL 2013, c. 23, as corrected by RR 2013, c. 2, §55, is repealed.

PART C

Sec. C-1. 22 MRSA §1714-E, sub-§7, as amended by PL 2015, c. 329, Pt. A, §5, is further amended to read:

7. Repeal. This section is repealed if Section 6402(h)(2) of the federal Patient Protection and Affordable Care Act, Public Law 111-148 and 42 Code of Federal Regulations, Part 455 are invalidated by the United States Supreme Court. The department shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes if the section of law and the regulation are invalidated.

Sec. C-2. 35-A MRSA §4392, sub-§6, as corrected by RR 2009, c. 2, §104, is amended to read:

6. Contingent repeal. After payment of all fees in accordance with subsection 5, the trustee shall re-

port to the commission and, upon certification by the commission, the fund ~~shall~~ must be dissolved expeditiously and this subchapter is repealed. The commission shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes when the fund is dissolved.

Sec. C-3. PL 1987, c. 566, §2 is amended to read:

Sec. 2. Effective date. This Act shall take effect when New Hampshire and Vermont have enacted concurrent legislation which limits the numbers in the ~~Tri-State~~ Tri-State Lotto game to no more than 36. When the contingency under this section is met, the State Liquor and Lottery Commission shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that it has been met.

Sec. C-4. PL 1995, c. 652, §4 is amended by adding at the end a new paragraph to read:

The Attorney General shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes when any of the 4 listed conditions has occurred.

Sec. C-5. PL 2003, c. 673, Pt. HH, §6 is amended by adding at the end a new paragraph to read:

The Department of Health and Human Services shall notify the joint standing committee of the Legislature having jurisdiction over health and human services matters, the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes if the notification from the United States Department of Health and Human Services under this section is received.

Sec. C-6. PL 2003, c. 673, Pt. HH, §7 is amended to read:

Sec. HH-7. Contingency for continued federal approval of hospital payment. Notwithstanding any other provision of law, the tax imposed under the Maine Revised Statutes, Title 36, section 2892 must be terminated within 30 days of notification by the United States Department of Health and Human Services that all or a part of the hospital payment modifications funded under section 8 of this Part are disapproved hospital reimbursements under the State's Medicaid program. The Department of Health and Human Services shall notify the joint standing committee of the Legislature having jurisdiction over health and human services matters, the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes if the notification is received.

Sec. C-7. PL 2015, c. 38, §3 is amended to read:

Sec. 3. Contingent effective date. This Act takes effect only upon the receipt by the Finance Authority of Maine Loan Insurance Reserve Fund of an appropriation, allocation or other funding source in the amount of at least \$37,000,000. When the contingency under this section is met, the Finance Authority of Maine shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that it has been met.

Sec. C-8. PL 2015, c. 224, §2 is amended to read:

Sec. 2. Contingent effective date. This Act takes effect only upon the receipt by the Economic Recovery Program Fund of an appropriation, an allocation or funds from another funding source in the amount of at least \$13,000,000. When the contingency under this section is met, the Finance Authority of Maine shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that it has been met.

PART D

Sec. D-1. 8 MRSA §1017, sub-§1, as amended by PL 2013, c. 212, §22, is further amended to read:

1. Form. An application for a license required under this chapter must be on the form provided by the board. The application must contain, but is not limited to, the following information regarding the individual applicant and each key ~~employee~~ executive, officer, director, partner, shareholder, creditor, associate or owner of any legal or beneficial interest in a person applying for a license:

- A. Full name;
- B. Full current address and addresses for the prior 15 years;
- C. A record of previous issuances and denials of or any adverse action taken against a gambling-related license or application under this chapter or in any other jurisdiction. For purposes of this paragraph, "adverse action" includes, but is not limited to, a condition resulting from an administrative, civil or criminal violation, a suspension or revocation of a license or a voluntary surrender of a license to avoid or resolve a civil, criminal or disciplinary action;
- D. All information the board determines is necessary or appropriate to determine whether the applicant satisfies the qualifications specified in section 1016, subsections 1 and 1-A; and
- E. Any information the board by rule considers necessary.

Sec. D-2. 12 MRSA §11109, sub-§3, as amended by PL 2015, c. 127, §§1 and 2 and affected by §6 and amended by c. 245, §2, c. 281, Pt. E, §4 and

c. 301, §13, is repealed and the following enacted in its place:

3. Hunting licenses; combination licenses; fees. Hunting licenses, combination licenses and fees are as follows.

A. A resident junior hunting license, for a person under 16 years of age, is \$8 and permits hunting of all legal species, subject to the permit requirements in subchapter 3. Notwithstanding the permit fees established in subchapter 3, a resident junior hunting license includes all permits, stamps and other permissions needed to hunt at no additional cost. A license holder under this paragraph who qualifies to hunt during the special season on deer under section 11153 and who meets the eligibility requirements of section 11106 must be issued one antlerless deer permit and one either-sex permit. A resident junior hunting license does not exempt the holder of the license from lottery-related application requirements under this Part.

B. A resident hunting license, for a person 16 years of age or older, is \$26 and permits hunting of all legal species, subject to the permit requirements in subchapter 3.

C. A resident small game hunting license, for a person 16 years of age or older, which permits hunting for all legal species except deer, bear, moose, raccoon and bobcat, is \$15.

D. A resident combination hunting and fishing license is \$43 and permits hunting of all legal species, subject to the permit requirements in subchapter 3.

E. A resident combination archery hunting and fishing license is \$43 and permits hunting of all legal species, subject to the permit requirements in subchapter 3.

E-1. A resident apprenticeship hunter license, which includes a bear hunting permit and a wild turkey hunting permit under sections 11151 and 11155, respectively, is \$26 and permits hunting of all legal species, subject to the permit requirements in subchapter 3.

F. A nonresident junior hunting license, for a person under 16 years of age, is \$35 and permits hunting of all legal species, subject to the permit requirements in subchapter 3. Notwithstanding the permit fees established in subchapter 3, a nonresident junior hunting license includes all permits, stamps and other permissions needed to hunt at no additional cost. A license holder under this paragraph who qualifies to hunt during the special season on deer under section 11153 and who meets the eligibility requirements of section 11106 must be issued one antlerless deer permit and one either-sex permit. A nonresident junior

hunting license does not exempt the holder of the license from lottery-related application requirements under this Part.

G. A nonresident small game hunting license, which permits hunting of all legal species except deer, bear, moose, raccoon and bobcat, is \$75.

H. A nonresident 3-day small game hunting license, valid for 3 consecutive hunting days, which permits hunting of all legal species except deer, bear, moose, raccoon and bobcat for the 72-hour period specified on the license, is \$50.

I. A nonresident hunting license, which permits hunting of all legal species subject to the permit requirements in subchapter 3, is \$115.

J. A nonresident combination hunting and fishing license is \$150.

K. An alien small game hunting license, which permits hunting of all species except deer, bear, moose, raccoon and bobcat, is \$80.

L. An alien hunting license, which permits hunting of all legal species subject to the permit requirements in subchapter 3, is \$140.

M. An alien combination hunting and fishing license is \$191.

O. A nonresident small game apprenticeship hunter license, which permits the hunting of all legal species except deer, bear, moose, raccoon and bobcat, is \$75.

P. A nonresident apprenticeship hunter license, which permits the hunting of all legal species and includes a bear hunting permit and a wild turkey hunting permit under sections 11151 and 11155, respectively, is \$115.

Sec. D-3. 22 MRSA §1812-J, sub-§7, as repealed and replaced by PL 2015, c. 299, §17, is amended to read:

7. Prohibited employment based on disqualifying offenses. An employer who employs an unlicensed assistive person to provide direct access services shall conduct a comprehensive background check in accordance with state law and rules adopted by the department and is subject to the employment restrictions set out in section 1812-G and other applicable federal and state laws. The employer is subject to penalties for employing a disqualified or otherwise ineligible person in accordance with applicable federal or state laws.

~~An employment ban based on a disqualifying offense is a lifetime employment ban.~~

Sec. D-4. 22 MRSA §2501, first ¶, as amended by PL 2013, c. 264, §7, is further amended to read:

Private homes are not deemed or considered lodging places and subject to a license when not more than 5 rooms are let; such private homes must post in a visible location in each rented room a card with the following statement in text that is easily readable in no less than 18-point boldface type of uniform font "This lodging place is not regulated by the State of Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention." The homes must provide guests upon check-in with a notice containing the same information. A license is not required from vacation rentals, youth camps, dormitories of charitable, educational or philanthropic institutions or fraternity and sorority houses affiliated with educational institutions, or from private homes used in emergencies for the accommodation of persons attending conventions, fairs or similar public gatherings, nor from temporary eating establishments and temporary lodging places for the same, nor from railroad dining or buffet cars, nor from construction camps, nor from boarding houses and camps conducted in connection with wood cutting and logging operations, nor from any boarding care facilities or children's homes that are licensed under section 7801.

Sec. D-5. 22 MRSA §5114, sub-§2, as amended by PL 2015, c. 332, §§1 and 2, is further amended to read:

2. Social services. "Social services" means any of the following services ~~which that~~ meet such standards as the ~~director~~ commissioner may prescribe:

A. Health services, including health aides, home care, homemakers, home repair and chore service and community care including counseling, information and referral services, continuing education, recreation and volunteer services;

B. Transportation, ~~where when~~ necessary to facilitate access to social services, with priority given to health services including hospitals, physician care, bona fide clinics, prescription drugs and other essential medications, meals programs and food distribution centers; and with priority given to income producing and supplement programs including social security, supplemental security and tax refunds;

C. Meals programs, ~~which that~~ provide at least one hot meal per day and any additional meals, hot or cold, ~~which that~~ the recipient of a grant or contract may elect to provide, each of which assures a minimum of 1/3 of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Science -- National Research Council, and ~~which provides that provide~~ such meals programs for individuals aged 60 and over and their spouses at sites close to the individual's residence; and where appropriate to furnish transportation to such site or home-delivered meals to homebound older

people; and to administer such meals programs in accordance with the appropriate and pertinent portions of the "nutrition and other program requirements" of the National Nutrition Program for the Elderly;

D. Services designed to encourage and assist older persons to use facilities and services available to them;

E. Services designed to assist older persons to obtain adequate housing;

F. Services designed to assist older persons in avoiding institutionalization, including evaluation and screening and home health services;

G. Any other services necessary for the general well-being of older persons; or

H. Services designed to assist older persons with maintaining their financial independence and avoiding financial exploitation, including personal financial management assistance.

Sec. D-6. 22 MRSA §5115, 3rd and 4th ¶¶, as enacted by PL 1973, c. 630, §1, are amended to read:

The number of persons aged 60 or over in the geographical boundaries of the area served by any area agency and in the entire State ~~shall~~ must be determined by the ~~director~~ commissioner on the basis of the most recent and satisfactory data available to ~~him~~ the commissioner.

Whenever the ~~director~~ commissioner determines that any amount allotted to an area agency for a fiscal year under this section will not be used by such agency for carrying out the purpose for which the allotment was made, ~~he~~ the commissioner shall make such amount available for carrying out such purpose to one or more other area agencies to the extent ~~he~~ the commissioner determines such other area agencies will be able to use such additional amount for carrying out such purpose. Any amount made available to an area agency from an appropriation for a fiscal year pursuant to the preceding sentence ~~shall~~ must, for purposes of this section, be regarded as part of such agency's allotment, as determined under the preceding provisions of this section for such year.

Sec. D-7. 22 MRSA §5116, sub-§1, ¶¶B and C, as enacted by PL 1973, c. 630, §1, are amended to read:

B. The ~~State~~ state agency ~~shall~~ must, in accordance with regulations of the ~~director~~ commissioner, designate an area agency as the sole area agency to:

(1) Develop the area plan to be submitted to the ~~director~~ commissioner for approval under section 5118;

- (2) Administer the area plan within such area;
- (3) Be primarily responsible for the coordination of all area activities related to the purposes of this Act; and
- (4) Review and comment on, under its own initiative or at the request of any state or federal department or agency, any application from any agency or organization within such area to such state or federal department or agency for assistance related to meeting the needs of older persons; and
- (5) Develop and provide, or assure the provision of, coordinated community programs for the delivery of social services; and

C. The area agency designated pursuant to paragraph B shall:

- (1) Determine which portions of its area will be included in the area plan to be developed in accordance with section 5118; and
- (2) Provide assurances satisfactory to the ~~director~~ commissioner that the area agency will take into account, in connection with matters of general policy arising in the development and administration of the area plan for any fiscal year, the recommendations of older people in need of or served by social services provided under such plan.

Sec. D-8. 22 MRSA §5118, as amended by PL 2003, c. 510, Pt. B, §8, is further amended to read:

§5118. Area plans

1. Plans. In order to be approved by the state agency, an area plan ~~shall~~ must be developed by the area agency designated with respect to such area under section 5116, subsection 1, paragraph B and ~~shall~~ must:

- A. Provide for the establishment of a coordinated community program for the delivery of social services within the area covered by the plan, including determining the need for social services in such area, taking into consideration, among other things, the number of older persons with low incomes residing in such area, the extent to which existing public or private programs meet such need, evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of social services in such area, for the provision of such services to meet such need;
- B. In accordance with criteria established by the ~~director~~ commissioner by regulation relating to priorities, provide for the initiation, expansion or improvement of social services in the area covered by the area plan;

C. Provide for the establishment and maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonably convenient access to such sources. For purposes of this paragraph, an information and referral source is a location where a public or private agency or organization:

- (1) Maintains current information with respect to the opportunities and services available to older persons, and develops current lists of older persons in need of services and opportunities; and
- (2) Employs a specially trained staff to inform older persons of the opportunities and services ~~which that~~ are available, and assists these persons to take advantage of these opportunities and services;

D. Provide that the area agency will:

- (1) Conduct periodic evaluations of activities carried out pursuant to the area plan;
- (2) Render appropriate technical assistance to providers of social services in the planning and service area covered by the area plan;
- (3) ~~Where~~ When necessary and feasible, enter into arrangements, consistent with the area plan, under which funds under this Title may be used to provide legal services to older persons in the area carried out through federally assisted programs or other public or nonprofit agencies;
- (4) Take into account, in connection with matters of general policy arising in the development and administration of the area plan, the recommendations of older people in need of or served by social services provided under such plan;
- (5) ~~Where~~ When possible, enter into arrangements with organizations providing children services so as to provide opportunities for older persons to aid or assist, on a voluntary basis, in the delivery of such services to children; and
- (6) Establish an advisory council, which may be the board of directors or a subcommittee thereof, of the area agency consisting of at least 65% older people representatives of the target population and the general public, to advise the area agency on all matters relating to the administration of the plan and operations conducted thereunder.

E. Provide for the use of such methods of administration as are necessary for the proper and efficient administration of the plan;

F. Provide that the area agency will make such reports, in such form and containing such information as the ~~director~~ commissioner may from time to time require, and comply with such requirements as the ~~director~~ commissioner may impose to assure the correctness of these reports;

G. Establish objectives consistent with the purposes of this Title, toward which activities under the plan will be directed, identify obstacles to the attainment of those objectives and indicate how it proposes to overcome those obstacles;

H. Provide that no social service will be directly provided by the state agency or an area agency, except ~~where~~ when, in the judgment of the state agency, provision of that service by the state agency or an area agency is necessary to assure an adequate supply of that service; and

I. Provide that preference ~~shall~~ must be given to persons aged 60 or over for any staff positions, ~~full-time~~ full-time or part-time, in area agencies for which these persons qualify.

2. Approval of area plan. The ~~director~~ commissioner shall approve any area plan ~~which he~~ that the commissioner finds fulfills the requirements of subsection 1, paragraphs A to I.

3. Notice and opportunity for hearing. The ~~director~~ commissioner ~~may~~ may not make a final determination disapproving any area plan, or any modification thereof, or make a final determination that an area agency is ineligible under section 5116, without first affording the area agency reasonable notice and opportunity for a hearing.

4. Findings. Whenever the director, after reasonable notice and opportunity for hearing to the area agency, finds that:

A. The area agency is not eligible under section 5116;

B. The area plan has been so changed that it no longer complies with subsection 1, paragraphs A to I; or

C. In the administration of the plan, there is a failure to comply substantially with any provision of subsection 1, paragraphs A to I, the ~~director~~ commissioner shall notify the area agency that no further payments from its allotments under section 5115 and Section 306 of the federal Older Americans Act of 1965, 42 United States Code, Section 3026 will be made to the agency or, in the ~~director's~~ commissioner's discretion, that further payments to the agency will be limited to projects under or portions of the area plan not affected by the failure, until the ~~director~~ commissioner is satisfied that there will no longer be any failure to comply. Until the ~~director~~ commissioner is so satisfied, further payments may not be made to the agency

from its allotments under section 5115, or payments may be limited to projects under or portions of the area plan not affected by the failure. The ~~director~~ commissioner shall, in accordance with rules adopted by the ~~director~~ commissioner, disburse funds so withheld directly to any public or nonprofit private organization or agency of the area, submitting an approved plan in accordance with section 5116. Any payment or payments must be matched in the proportions specified in section 5116.

5. Final action; dissatisfaction. An agency ~~which~~ that is dissatisfied with a final action of the ~~director~~ under subsection 2, 3 or 4 may appeal to the commissioner by filing a petition with the commissioner within 60 days after final action. ~~A copy of the petition shall be forthwith transmitted by the commissioner to the director. The director thereupon shall file with the commissioner the record of the proceedings on which he based his action. Upon the filing of the petition, the commissioner shall have jurisdiction to affirm the action of the director or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record the director may modify or set aside his order. The findings of the director as to the facts, if supported by substantial evidence, shall be conclusive, but the commissioner, for good cause shown, may remand the case to the director to take further evidence, and the director may thereupon make new or modified findings of fact and may modify his previous action, and shall file with the commissioner the record of the further proceedings. The new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the commissioner affirming or setting aside, in whole or in part, any action of the director shall be is final.~~

Sec. D-9. 28-A MRSA §10, sub-§2-B is enacted to read:

2-B. Access exception. Notwithstanding subsection 2, there may be access between the 2 licensed areas by the public as provided by this subsection.

A. There may be access between the 2 licensed areas when there is a clear delineation of space, by a wall or permanent barrier that separates the 2 licensed areas and allows only one clearly defined and controlled point of access for patrons between the licensed establishments. The controlled point of access is not required to include a door that must be physically opened and closed.

B. When access between the 2 licensed areas exists for patrons of either establishment, all malt liquor and wine sold for on-premises consumption must be served by an employee of the licensed establishment and may be served only when accompanying a full meal prepared in a separate and complete kitchen on the premises. For the purposes of this paragraph, "full meal" means a di-

verified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking.

C. Malt liquor or wine sold or served on the premises may not be transported by a patron or employee of either establishment from one licensed area to another. The licensee shall ensure that easily readable signs are conspicuously posted to inform the public that transfer of alcoholic beverages from one licensed area to another is strictly prohibited.

Sec. D-10. Retroactivity. That section of this Part that enacts the Maine Revised Statutes, Title 28-A, section 10, subsection 2-B applies retroactively to September 30, 2015.

Sec. D-11. PL 2015, c. 267, Pt. OOOO, §7 is amended to read:

Sec. OOOO-7. Application date. This Part applies to sales occurring on or after January 1, 2016 except that the section of this Part that amends the Maine Revised Statutes, Title 36, section 1811, first paragraph, applies to sales occurring on or after ~~July~~, July 1, 2015 and the sections that enact Title 36, section 1760, subsections 98 and 99; apply to sales occurring on or after October 1, 2015.

Sec. D-12. Retroactivity. That section of this Part that amends Public Law 2015, chapter 267, Part OOOO, section 7 applies retroactively to June 30, 2015.

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

Effective April 27, 2016.

**CHAPTER 495
H.P. 695 - L.D. 1000**

An Act To Define Prosthetic and Orthotic Devices for Purposes of the Sales Tax Law

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

Sec. 1. 36 MRSA §1752, sub-§8-D is enacted to read:

8-D. Prescription. "Prescription" means an order, formula or recipe issued in any form of oral, written or electronic means or other means of transmission by a health care practitioner as defined in Title 24, section 2502, subsection 1-A who is licensed under Title 32.

Sec. 2. 36 MRSA §1752, sub-§9-F is enacted to read:

9-F. Prosthetic or orthotic device. "Prosthetic or orthotic device" means a replacement, corrective or supportive device, including repair and replacement parts for such device, worn on, in or next to the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

Sec. 3. 36 MRSA §1760, sub-§5-A, as amended by PL 2009, c. 434, §24, is further amended to read:

5-A. Prosthetic or orthotic devices. Sale of prosthetic aids, hearing aids or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity; or orthotic devices sold by prescription and sale of crutches and wheelchairs for the use of sick, injured or disabled persons and not for rental.

Sec. 4. Effective date. This Act takes effect October 1, 2016.

Effective October 1, 2016.

**CHAPTER 496
S.P. 609 - L.D. 1554**

An Act To Resolve Inconsistencies in the Drug Laws

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

Sec. 1. 17-A MRSA §1101, sub-§18, ¶C, as amended by PL 2015, c. 346, §2, is further amended to read:

C. To possess at least one gram more than 200 milligrams but less than 2 grams of heroin or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing heroin; or

Sec. 2. 17-A MRSA §1101, sub-§18, ¶D, as enacted by PL 2015, c. 346, §2, is amended to read:

D. To possess at least one gram more than 200 milligrams but less than 2 grams of fentanyl powder or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder.