

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

1975

This section shall not apply to the medical records and reports pertaining to persons receiving services from any private hospital pursuant to chapter 191.

Sec. 3. 34 MRSA § 2159, as last amended by P&SL 1973, c. 53, is repealed.

Sec. 4. 34 MRSA § 2256, as last amended by PL 1969, c. 135, § 2, is repealed.

Effective October 1, 1975

CHAPTER 496

AN ACT to Amend the Eating, Lodging and Recreational Place Licensing Law.

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

Sec. 1. 5 MRSA § 2301, sub-§ 1, ¶ A is amended to read:

A. All establishments licensed under Title 22, ~~section 2483~~ chapter 562;

Sec. 2. 22 MRSA c. 561, as amended, is repealed.

Sec. 3. 22 MRSA c. 562 is enacted to read:

CHAPTER 562

CAMPING AREAS AND EATING ESTABLISHMENTS

§ 2491. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Camping area. "Camping area" means, in addition to the general accepted interpretations, seashore resorts, lakeshore places, picnic and lunch grounds or other premises where trailers, tents, auto homes or house cars are permitted to be parked for compensation either directly or indirectly.

2. Catering establishments. "Catering establishments" means any kitchen, commissary or similar place in which food or drink is prepared for sale or service elsewhere or for service on the premises during special catered events.

3. Commissioner. "Commissioner" means the Commissioner of Health and Welfare.

4. Cottage. "Cottage" means a single structure where sleeping accommodations are furnished to the public as a business for a day, week or month, but not for more than the entire summer season.

5. Department. "Department" means the Department of Health and Welfare.

6. Eating and lodging places or lodging place. "Eating and lodging place or lodging place" means every building or structure or any part thereof kept, used as, maintained as, advertised as or held out to the public to be a place where eating and sleeping or sleeping accommodations are furnished to the public as a business, such as hotels, motels, guest homes and cottages.

7. Eating establishment. "Eating establishment" means any place where food or drink is prepared and served, or served to the public for consumption on the premises, or catering establishments, or establishments dispensing food from vending machines, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving foods, stores, airports, parks, theaters, vacation camps or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

8. Mobile eating place. "Mobile eating place" means a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and capable of being moved from its serving site at any time.

9. Mobile home. "Mobile home" shall mean a structure, transportable in one or more sections which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

10. Mobile home park. "Mobile home park" means a parcel or adjoining parcels of land, under single ownership which has been planned and improved for the placement of 2 or more mobile homes per parcel.

11. Recreational camp. "Recreational camp" means and includes day camps, boys' and girls', family, hunting, fishing and similar camps.

12. Sanitarian. "Sanitarian" means a person whose education and experience in the biological and sanitary sciences qualify him to engage in the promotion and protection of the public health. He applies technical knowledge to solve problems of a sanitary nature and develops methods and carries out procedures for the control of those factors of man's environment which affect his health, safety and well-being.

13. Vending machine establishment. "Vending machine establishment" means any establishment preparing foods for vending machines dispensing foods other than in original sealed packages.

14. Vending machine. "Vending machine" shall mean any self-service device offered for public use which, upon insertion of a coin, coins or token or

by other similar means, dispenses unit servings of food without the necessity of replenishing the device between vending operations.

§ 2492. License required

No person, corporation, firm or copartnership shall conduct, control, manage or operate, for compensation, directly or indirectly, any eating establishment, eating and lodging place, lodging place, recreational camp, camping area or mobile home park, unless the same shall be licensed by the department. Licenses issued must be displayed in a place readily visible to customers or other persons using a licensed establishment.

§ 2493. Applicant

Any person, corporation, firm or copartnership desiring a license shall submit satisfactory evidence of his, her or its ability to comply with the minimum standards of this chapter and all regulations adopted thereunder.

§ 2494. Fees

Each application for, or for renewal of, a license to operate an eating establishment, eating and lodging place, lodging place, recreational camp, camping area or mobile home park within the meaning of this chapter shall be accompanied by a fee, appropriate to the size of the establishment, place, camp, area or park of the licensee, determined by the department and not to exceed \$30. No such fee shall be refunded. No license shall be assignable or transferable.

All such fees are for the license and the initial licensure inspection and one follow-up inspection. When additional inspections are required to determine an applicant's eligibility for licensure, the department is authorized through its regulations to charge an additional \$10 fee to cover the costs of each additional inspection or visit. Failure to pay such charges within 90 days of the billing date shall constitute grounds for revocation of said license, unless an extension for a period not to exceed 90 days is granted in writing by the commissioner.

§ 2495. Issuance of licenses

The department shall, within 30 days following receipt of application, issue a license to operate any eating establishment, eating and lodging place, lodging place, recreational camp, camping area or mobile home park which is found to comply with this chapter and any rules and regulations adopted by the department. When any such applicant, upon inspection by the department, shall be found not to meet the requirements of this chapter or departmental regulations thereunder, the department is authorized to issue either a temporary license for a specified period not to exceed 90 days, during which time corrections specified by the department shall be made by said applicant for compliance, or a conditional license setting forth conditions which must be met by the applicant to the satisfaction of the department.

A full-year license shall be issued for one year from date of issuance and the prescribed fee shall accompany the application for license. Licenses may be renewed upon application therefor and payment of the annual fee, subject to the department's rules and regulations. Licenses erroneously issued by the department will be considered void and shall be returned to the department on demand.

The department shall, during the 2-year period following the effective date of this Act, redistribute the expiration dates of the existing licenses so that an equal number expire in each month of the year thus allowing for distributing the work of relicensure evenly throughout the year.

The department shall notify license holders no less than 30 days prior to the expiration of their license and provide them with any necessary relicensure forms.

§ 2496. Rules and regulations

The department is authorized and empowered to make and enforce all necessary rules and regulations for the administration of this chapter, and may rescind or modify such rules and regulations from time to time as may be in the public interest, insofar as such action is not in conflict with any of the provisions of this chapter.

Prior to the adoption, amendment or repeal of any rules or regulations, the department shall hold a public hearing of which due notice has been given in appropriate newspapers throughout the State, to afford interested persons the opportunity to submit suggestions orally or in writing. At least 35 days prior to any hearing and for a period of at least 5 days, the department shall publish notice of its intent to hold a public hearing and shall send notice to each licensed establishment of the time and place when such public hearing is to be held. At least 30 days prior to said hearing, the department shall make copies of all proposed rules or changes available to any interested person. Any proposed rules shall be published within 30 days following the public hearing. Any person aggrieved by any decision of the department, including the promulgation of any rules, may, within 30 days of the decision or the publication of the rules complain to the Administrative Court Judge. The decision or rule of the department may be stayed by the Administrative Court Judge until a final decision on the complaint is rendered. The adoption, amendment or repeal of any rule shall be effective after a 60-day public review period following this public hearing.

§ 2497. Right of entry and inspection

The department and any duly designated officer or employee thereof shall have the right to enter upon and into the premises of any establishment licensed pursuant to this chapter at any reasonable time in order to determine the state of compliance with this chapter and any rules and regulations in force pursuant thereto. Such right of entry and inspection shall extend to any premises which the department has reason to believe is being operated or maintained without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a complaint is first obtained from the District Court.

§ 2498. Penalties

Any person, corporation, firm or copartnership who shall operate any eating establishment, eating and lodging place, lodging place, recreational camp, camping area or mobile home park without first obtaining a license as required by this chapter shall, upon conviction thereof, be punished by a fine of not less than \$10 nor more than \$100, and upon 2nd or subsequent conviction, shall be punished by a fine of not less than \$100. Each day any such person, corporation, firm or copartnership operates without obtaining a

license shall constitute a separate offense. In the event of any violation of this section or any rule or regulation hereunder, the Attorney General may seek to enjoin further violation thereof, in addition to any other remedy.

§ 2499. Municipal inspections

Notwithstanding any other provisions of this chapter, the department may issue a license to establishments as defined in section 2491 on the basis of an inspection performed by an inspector who works for and is compensated by the municipality in which such establishment is located, but only if the following conditions have been met.

1. **Adopted rules, regulations; code of standards.** The municipality involved has adopted a set of rules and regulations, ordinances or other code of standards for such establishments which has been approved by the department and which is consistent with the regulations used by the department for the issuance of such licenses in effect at the time of inspection.

2. **Qualified to make inspections.** No municipal employed sanitarians shall make inspections under the provisions of this chapter unless certified as qualified by the Commissioner of Health and Welfare.

3. **Inspection to ascertain intent.** The department may from time to time inspect such municipally inspected establishments to ascertain that the intent of these statutes is being followed.

4. **Inspection reports.** The municipalities shall furnish the department copies of its inspection reports relating to said inspections on a monthly basis.

5. **Charge.** Municipalities may not charge the department for performing such inspections.

6. **License fee.** When a license is issued on the basis of a municipal inspection as specified in this section, the requirement for payment of a license fee to the department as set forth in section 2494 shall be waived. However, the licensee shall be required to pay the department a sum not to exceed \$5 to support the costs of mailing and handling.

7. **Licenses.** Licenses issued under section 2499 must be displayed, renewed and in every other way treated the same as licenses issued under this chapter on the basis of inspection by the department.

8. **Certification.** Certification of municipally employed sanitarians shall be in accordance with standards set by the commissioner and shall be for a period of 3 years.

§ 2500. Suspension or revocation; appeals

When the department believes a license should be suspended or revoked, it shall file a statement or complaint with the Administrative Court Judge designated in Title 5, chapters 301 to 307. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with the Administrative Court Judge.

§ 2501. Exceptions

Private homes shall not be deemed or considered lodging places and subject to a license where not more than 3 rooms are let. A license shall not be required from dormitories of charitable, educational or philanthropic institutions, 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 and 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 homes for the aged, blind or other persons over 16 years of age which are licensed under section 5, nor from any homes which board children exclusively and which are licensed under section 3797.

Cottages shall not be deemed or considered lodging places and subject to a license where not more than 3 cottages are let.

Stores or other establishments, where bottled soft drinks or ice cream is sold for consumption from the original containers only, and where no tables, chairs, glasses or other utensils are provided in connection with such sale, shall not be considered eating places within the meaning of this section. At such establishments, straws or spoons may be provided to aid in the consumption of such bottled soft drinks or ice cream, provided they shall be supplied in original individual single service sterile packages.

Nonprofit organizations including, but not limited to, 4-H Clubs, scouts and argicultural societies shall be exempt from department rules and regulations relating to dispensing foods and nonalcoholic beverages at not more than 12 public events or meals within one calendar year.

Effective October 1, 1975

CHAPTER 497

AN ACT to Change the Name of Department of Inland Fisheries and Game to Department of Inland Fisheries and Wildlife.

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

Sec. 1. 12 MRSA § 1951, as last amended by PL 1969, c. 504, § 21, is further amended to read:

§ 1951. **Appointment; deputy**

A Commissioner of Inland Fisheries and ~~Game~~ **Wildlife**, as heretofore appointed by the Governor with the advice and consent of the Council and in chapters 301 to 335 called the "commissioner," shall hold office for 3 years and shall serve until his successor is appointed and qualified. The commissioner shall appoint, subject to the Personnel Law, a Deputy Commissioner of Inland Fisheries and ~~Game~~ **Wildlife**. The commissioner shall make a report to the Governor on or before the 31st day of December of each year for the year ending June 30th prior thereto.