

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

**PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
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PUBLIC LAWS
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license. The fee for a renewal is \$50, which is refundable upon denial of renewal.

2. **Expiration.** If a previously issued license has expired and not been renewed within a period of 60 days, the application shall be considered the original application and the same fees and all requirements of an original application shall apply.

3. **Expenses.** The fees required under this chapter shall be applied to the expense of administering this chapter.

§ 8118. Application of Administrative Procedure Act

The Maine Administrative Procedure Act, Title 5, chapter 375, shall govern all administrative actions taken under this chapter.

§ 8119. Severability clause

If any provision of this chapter or the application thereof to any person or circumstance is held invalid by the court of competent jurisdiction, the holding shall not affect other provisions or applications of this chapter which can be given effect without that jurisdiction or application.

Effective September 18, 1981

CHAPTER 127

H. P. 246 — L. D. 280

AN ACT to Clarify Transition Provisions for Guardians under the Probate Code and to Conform Certain Language Concerning Appellate Procedure in Adoption Cases to the Procedures Adopted in the Probate Code.

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

Whereas, an oversight in the conforming amendments accompanying the adoption of the Probate Code resulted in the failure to remove certain language concerning appellate procedures in adoption cases that was implicitly repealed by PL 1979, chapter 540, section 7-B, so that adoptions are said still to be appealable to the Supreme Court of Probate even though that court has been abolished and even though the Probate Code provides that such appeals are to be made to the Law Court as in other civil actions; and

Whereas, a question has been raised as to the degree of certainty with which provision has been made that guardians appointed prior to January 1, 1981 continue to have the power to administer the estates of their wards in the dual

capacity of both a guardian and a conservator under the Probate Code after January 1, 1981; and

Whereas, this uncertainty concerning the present status of guardians affects the proper and intended implementation of the new Probate Code insofar as it concerns several thousand guardians appointed prior to January 1, 1981; and

Whereas, it is necessary in the interest of justice and in order to assure proper administration and application of these laws that these clarifications be made immediately so as to eliminate any possibility of confusion and establish with certainty the meaning and effect of the Probate Code; 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:

Sec. 1. 18-A MRSA § 8-401, sub-§ (b), ¶ (3), as enacted by PL 1979, c. 540, § 1, is amended to read:

(3) Every personal representative including a person administering an estate of a minor or incompetent holding an appointment on that date, continues to hold the appointment but has only the powers conferred by this Code and is subject to the duties imposed with respect to any act occurring or done thereafter **and a guardian appointed prior to January 1, 1981 shall have the powers conferred by this Code on guardians and conservators, unless otherwise limited by the original order of appointment or subsequent court order under this Code;**

Sec. 2. 19 MRSA § 532-C, last ¶, as enacted by PL 1973, c. 791, § 2, is amended to read:

An appeal shall lie from any ruling under this section to the ~~supreme court of probate~~ **Supreme Judicial Court, sitting as the Law Court, as in other civil actions,** and no consent to the adoption of, or surrender and release for the purpose of adoption of, the illegitimate child shall be approved pending such appeal.

Sec. 3. 19 MRSA § 536 is amended to read:

§ 536. Appeal to supreme court of probate

Any petitioner or any such child by his next friend may appeal from such decree to the ~~supreme court of probate, in the same manner and with the same effect as in other cases~~ **Supreme Judicial Court, sitting as the Law Court, as in other civil actions,** but no bond to prosecute his appeal shall be required of such child or next friend, nor costs be awarded against either.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 2, 1981

CHAPTER 128

S. P. 180 — L. D. 458

AN ACT Providing Due Process when the State Liquor Commission Designates a Location for a State Liquor Store.

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

28 MRSA § 151-A is enacted to read:

§ 151-A. Notice on locating state retail stores

1. Notice. At least 30 days prior to designating the location or relocation of a state retail liquor store, the commission shall notify in writing the municipal officers of:

- A. The municipality in which the store is presently located; and
- B. The municipality in which it is proposed to locate or relocate the store.

2. Notice to lessor. If the commission intends to terminate or not renew a lease or contract for occupancy of a building for a state retail liquor store, it shall notify, in writing, the lessor of that intention. Notice shall be given:

- A. Within the time limits required by the lease or contract for the lessor to notify the commissioner of his intention to terminate or not renew; or
- B. If there is no lease or contract provision establishing the time period for the lessor to notify the commission, at least 30 days prior to the termination or nonrenewal.

3. Hearing. If requested by the notified municipal officers, the commission shall hold a public hearing in the affected municipality at least 10 days prior to designating that location or relocation.

4. Exception for certain leases. If the commission's occupancy of a store location is terminated under a lease or contract in a manner that prevents compliance with subsection 1 or 3, the commission shall immediately notify the