

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR  
FIRST REGULAR SESSION  
NON-EMERGENCY LAWS IS  
OCTOBER 13, 1993

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

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J.S. McCarthy Company  
Augusta, Maine  
1993

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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**§1115. Errors in documentation**

**1. Invoice errors.** If an invoice is filled out incorrectly or incompletely or if there is any defect or impropriety in an invoice submitted, the owner, contractor or subcontractor must contact the person submitting the invoice in writing within 10 working days of receiving the invoice. If the contractor or subcontractor does not notify the person submitting the invoice within 10 days, the documentary errors are deemed waived.

**2. Timely payment requirements.** All timely payment requirements of this chapter apply, regardless of the dates invoices are corrected, whenever the person submitting the invoice has completed the work in a timely manner.

**3. New billing period.** If an error on the invoice is corrected by the person submitting the invoice, the date on which the corrected invoice is delivered is the end of the billing period.

**§1116. Retainage**

**1. Payment.** If payments under a construction contract are subject to retainage, any amounts retained during the performance of the contract and due to be released to the contractor upon completion must be paid within 30 days after final acceptance of the work.

**2. Retainage for subcontractors.** If an owner is not withholding retainage for a subcontractor's work, a contractor may withhold retainage from its subcontractor or material supplier in accordance with their agreement. The retainage must be paid within 30 days of final acceptance of the work.

**3. Payment of retainage to subcontractors.** Notwithstanding any contrary agreement, a contractor shall pay to its subcontractors or material suppliers and each subcontractor shall in turn pay to its subcontractors or material suppliers, within 7 days after receipt of the retainage, the full amount due to each subcontractor or material supplier.

**4. Withholding retainage.** If a contractor or subcontractor unreasonably withholds acceptance of the work or materials or fails to pay retainage as required by this section, the owner, contractor or subcontractor is subject to the interest, penalty and attorney's fees provisions of this chapter.

**§1117. Prepayment or advance payment**

This chapter in no way may be construed to prohibit an owner, contractor or subcontractor from making advance payments, progress payments or from prepaying if agreements or other circumstances make those payments appropriate. All such payments must be made promptly and are subject to the interest, penalty and other provisions of this chapter.

**§1118. Disputes; penalties; attorney's fees**

**1. Withholding payment.** Nothing in this chapter prevents an owner, contractor or subcontractor from withholding payment in whole or in part under a construction contract in an amount equalling the value of any good faith claims against an invoicing contractor, subcontractor or material supplier, including claims arising from unsatisfactory job progress, defective construction or materials, disputed work or 3rd-party claims.

**2. Penalty.** If arbitration or litigation is commenced to recover payment due under the terms of this chapter and it is determined that an owner, contractor or subcontractor has failed to comply with the payment terms of this chapter, the arbitrator or court shall award an amount equal to 1% per month of all sums for which payment has wrongfully been withheld, in addition to all other damages due and as a penalty.

**3. Wrongful withholding.** A payment is not deemed to be wrongfully withheld if it bears a reasonable relation to the value of any claim held in good faith by the owner, contractor or subcontractor against which an invoicing contractor, subcontractor or material supplier is seeking to recover payment.

**4. Attorney's fees.** Notwithstanding any contrary agreement, the substantially prevailing party in any proceeding to recover any payment within the scope of this chapter must be awarded reasonable attorney's fees in an amount to be determined by the court or arbitrator, together with expenses.

**§1119. Contracts involving federal funds**

Notwithstanding any provision of this chapter, language at variance to the requirements of this chapter may be included in contracts when that variance is required by any law, regulation or grant agreement conditioning the receipt or expenditure of federal aid.

**§1120. Owner exclusion**

This chapter does not apply to contracts for the purchase of materials by a person performing work on that person's own real property.

See title page for effective date.

**CHAPTER 462**

**S.P. 120 - L.D. 358**

**An Act to Amend the Liquor Laws Pertaining to the Retail Sale of Wine**

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

**Sec. 1. 28-A MRSA §2, sub-§12**, as repealed and replaced by PL 1987, c. 342, §2, is repealed.

**Sec. 2. 28-A MRSA §2, sub-§16-A**, as enacted by PL 1991, c. 591, Pt. VV, §1, is amended to read:

**16-A. Low-alcohol spirits product.** "Low-alcohol spirits product" means a product containing spirits that has an alcohol content of ~~not more than 4%~~ less than 6% by volume.

**Sec. 3. 28-A MRSA §2, sub-§31**, as amended by PL 1991, c. 591, Pt. VV, §2, is further amended to read:

**31. Spirits.** "Spirits" means any liquor produced by distillation or, if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind, including low-alcohol spirits products. ~~"Spirits" includes fortified wine.~~

**Sec. 4. 28-A MRSA §2, sub-§32**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**32. State liquor store.** "State liquor store" means a store operated by the commission ~~which that~~ sells spirits and fortified wines to be consumed off the premises.

**Sec. 5. 28-A MRSA §2, sub-§36**, as repealed and replaced by PL 1987, c. 342, §13, is amended to read:

**36. Wine.** "Wine" means any liquor containing not more than ~~15.5%~~ 24% alcohol by volume ~~which that~~ is produced by the fermentation of fruit or other agricultural products containing sugar ~~and or wine~~ to which ~~no~~ spirits ~~are~~ have been added not to exceed 24% by volume. "Wine" includes, but is not limited to, wine coolers, table wine, still wine, sparkling wine ~~and~~, champagne and fortified wine, provided that the alcohol content is not above ~~15.5%~~ 24% by volume.

**Sec. 6. 28-A MRSA §1651, sub-§2, ¶A**, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

**Sec. 7. 28-A MRSA §1652, sub-§1-A**, as enacted by PL 1991, c. 591, Pt. VV, §7, is amended to read:

**1-A. Excise tax on low-alcohol spirits products and fortified wines.** An excise tax is imposed on the privilege of manufacturing and selling low-alcohol spirits products and fortified wines in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of \$1 per gallon on all low-alcohol spirits products and fortified wines manufactured in or imported into the State.

**Sec. 8. 28-A MRSA §1703, sub-§2**, as amended by PL 1991, c. 591, Pt. VV, §9, is further amended to read:

**2. Malt liquor, wine, low-alcohol spirits products and fortified wines.** In addition to any other tax or charge imposed under state or federal law, a premium must be imposed on all malt liquor and wine, including fortified wines, sold in the State and on all low-alcohol spirits products sold in the State by persons licensed to sell wine for consumption on or off the premises. The premium must be in the amount specified in subsection 3.

A. The commission shall open a premium account with all manufacturers and importing wholesalers.

B. Premiums must be collected in the same manner provided for the collection of excise taxes under sections 1404 and 1405.

C. Premiums must be paid to the commission by the Maine manufacturer or importing wholesaler.

D. The duties, prohibitions and liabilities under this subsection of licensees and certificate of approval holders are the same as those under sections 1361, 1364, 1404 and 1405.

E. The commission shall grant credits and make adjustments under this subsection on the same terms and conditions as provided in section 1652.

**Sec. 9. 28-A MRSA §1703, sub-§3, ¶C**, as amended by PL 1991, c. 591, Pt. VV, §10, is further amended to read:

C. Twenty-four cents per gallon on all sparkling wine and all fortified wine sold in the State and all low-alcohol spirits products sold by a person licensed to sell wine for consumption on or off the premises; and

See title page for effective date.