

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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

J.S. McCarthy Company
Augusta, Maine
1993

under this subsection. As part of a program adopted under this subsection, the commission may waive the requirements of section 3101. Any program authorized under this subsection must be consistent with section 3191. The authority granted to the commission under this subsection is in addition to the authority of the commission granted under other provisions of this Title and nothing in this subsection may be construed to limit the authority of the commission under any other provision of this Title.

See title page for effective date.

CHAPTER 615

S.P. 612 - L.D. 1710

An Act to Simplify the State's Liquor Tax

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

Sec. 1. 28-A MRSA §64, sub-§2, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

2. Inventory. The commission may keep and have on hand a stock of spirits and fortified wine for sale, the value of which, when priced for resale, ~~shall~~ must be computed on ~~less carload price quotations the delivered case cost F.O.B. liquor warehouse filed by liquor vendors. The inventory value shall~~ must be based upon actual cost for which payment may be due and ~~shall may~~ not at any time exceed the amount of working capital authorized. Spirits ~~shall and fortified wine~~ may not be considered in the inventory until payment has been made for them.

Sec. 2. 28-A MRSA §352, sub-§1, ¶D, as enacted by PL 1991, c. 791, §1, is amended to read:

D. In addition to the methods of payment permitted in paragraph C, an agency liquor store, when approved by the commission, may pay for liquor purchased from the commission ~~within 10 days if the agent has deposited cash in escrow with the commission to cover those purchases by mailing a check for payment to the commission when notified of the amount due or upon receiving a liquor delivery. Payments that are mailed must be received or postmarked within 3 days of receipt of a liquor delivery or notification of the amount due.~~

Sec. 3. 28-A MRSA §352, sub-§2, as repealed and replaced by PL 1991, c. 791, §1, is amended to read:

2. Checks not honored on presentation; consequences. If any check is not honored on presen-

tation or if an agency liquor store fails to pay for liquor ~~in the allotted 10 day period as prescribed in subsection 1,~~ the ~~commission bureau~~ shall withhold any license not issued or immediately take back the license if already issued, voiding that license until such time as the check or invoice is paid in full, together with the cost of the check failure or collection procedure. The ~~commission or bureau~~ may order that person to make all payments to the commission by cash, certified check or money order for a period not to exceed one year.

Sec. 4. 28-A MRSA §708, sub-§5 is enacted to read:

5. Combination packages. Notwithstanding subsection 3, agency liquor store licensees may offer for sale any package or combination of packages of spirits that the commission has approved for sale in state liquor stores.

Sec. 5. 28-A MRSA §1651, sub-§1, as amended by PL 1991, c. 819, §1, is further amended to read:

1. State liquor tax. Except as provided in subsection 2, the commission shall determine and set the price at which to sell all spirits ~~which and fortified wine that~~ will produce a state liquor tax of not less than 75% 65% based on the less carload delivered case cost F.O.B. liquor warehouse.

~~A. In all cases the commission may round off costs to the next highest 5¢.~~

~~B. Any increased federal taxes levied on or after November 1, 1941, shall be added to the established price without markup.~~

C. The commission shall add any cost to the State, related to handling containers returned for refund pursuant to Title 32, section 1863-A, to the established price without markup.

Sec. 6. 28-A MRSA §1651, sub-§2, ¶¶B and D, as enacted by PL 1987, c. 45, Pt. A, §4, are repealed.

See title page for effective date.

CHAPTER 616

S.P. 615 - L.D. 1713

An Act to Clarify Maine Corporate Laws

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

Sec. 1. 10 MRSA §1522, sub-§1, ¶¶F and G, as amended by PL 1993, c. 316, §4, are further amended to read:

F. Consists of or comprises a mark that so resembles a mark registered in this State or a mark or trade name previously used in this State by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, unless the registered owner or holder of the other mark executes and files with the Secretary of State proof of authorization of the use of a similar mark by the applicant seeking to use the similar mark; or

G. Consists of or comprises any corporate or limited partnership name, unless the corporation or limited partnership executes and files with the Secretary of State proof of authorization of the use of a mark similar to the corporation or limited partnership's name by the applicant seeking to use the mark;

Sec. 2. 10 MRSA §1522, sub-§1, ¶¶H and I are enacted to read:

H. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial; or

I. Inappropriately promotes abusive or unlawful activity.

Sec. 3. 11 MRSA §9-407, sub-§(2), as amended by PL 1989, c. 600, Pt. A, §§20 to 22, is further amended to read:

(2) Upon the written request of any person, the filing officer shall issue a certificate of information, in such form as the Secretary of State may approve, showing whether there is on file on the date and hour stated therein any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for a certificate shall be certification is \$10 for the first page of that certificate, plus 50¢ for each additional page of the certificate after the first page. Upon request the filing officer shall furnish a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release for a fee of \$2 ~~and if any such statement consists of more than 3 pages, an additional fee of plus 50¢ for the 4th and each succeeding page of the copy after the first page.~~

Notwithstanding this subsection, if the filing officer is a municipal clerk or a register of deeds, issuance of the certificate of information is discretionary.

Upon reasonable request and within the existing ability of the office of the Secretary of State to respond, the filing officer shall furnish to any municipal clerk, without charge and for municipal purposes only, a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release.

Sec. 4. 13-A MRSA §301, sub-§8 is enacted to read:

8. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial;

B. Inappropriately promotes abusive or unlawful activity; or

C. Falsely suggests an association with public institutions.

Sec. 5. 13-A MRSA §1302, sub-§1, as amended by PL 1991, c. 780, Pt. U, §7, is further amended to read:

1. A corporation required to deliver an annual report for filing as provided by section 1301 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, providing the report is received by the Secretary of State prior to revocation or suspension. Upon failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 25 and Title 5, chapter 375, shall revoke a foreign corporation's authority to do business in this State and suspend a domestic corporation from doing business. The Secretary of State shall use the procedures set forth in section 1210, relative to revoking the right of foreign corporations to do business in this State, for suspending domestic corporations. A foreign corporation whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 1202. A domestic corporation that has been suspended under this subsection may be reinstated by filing the current annual report, together with the current annual filing fee, and by paying the sum of \$125 for each year the corporation failed to file an annual report. The maximum fee for reinstatement may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

Sec. 6. 13-B MRSA §301, sub-§7 is enacted to read:

7. Refuse filing. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial;

B. Inappropriately promotes abusive or unlawful activity; or

C. Falsely suggests an association with public institutions.

Sec. 7. 31 MRSA §403, sub-§5 is enacted to read:

5. Refuse filing. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial;

B. Inappropriately promotes abusive or unlawful activity; or

C. Falsely suggests an association with public institutions.

Sec. 8. 31 MRSA §497, sub-§4, as enacted by PL 1991, c. 552, §2 and affected by §4, is amended to read:

4. Penalty. The Secretary of State may fine any foreign limited partnership doing business in this State without first having been granted the authority to do business in this State \$750 for each year or part of a year during which the foreign limited partnership failed to obtain authority to do business in this State.

Sec. 9. 33 MRSA §1905, sub-§2, ¶A, as enacted by PL 1989, c. 502, Pt. A, §121, is amended to read:

A. Cause a certificate of release or nonattachment to be marked, held and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code; ~~Title 11, but the notice of lien to which the certificate relates may not be removed from the files;~~ and

Sec. 10. 33 MRSA §1905, sub-§4, as enacted by PL 1989, c. 502, Pt. A, §121, is amended to read:

4. Filing; fees. Upon the written request of any person, the Secretary of State shall issue a certificate showing whether there is on file, on the date and hour stated in the request, any notice of lien or certificate or notice affecting any lien filed under this chapter naming a particular person and, if a notice or certifi-

cate is on file, giving the date and hour of filing of each notice or certificate. The fee for ~~a certificate certification~~ is ~~\$5~~ \$10, plus 50¢ for each page of the certificate after the first page. Upon request, the Secretary of State shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of ~~\$1~~ \$2, plus 50¢ for each page of the copy after the first page.

Sec. 11. 33 MRSA §1906, as enacted by PL 1989, c. 502, Pt. A, §121, is amended to read:

§1906. Fees

Applicable fees ~~shall be~~ are governed by ~~section 751, subsection 8 and~~ Title 5, section 86.

See title page for effective date.

CHAPTER 617

S.P. 619 - L.D. 1721

An Act to Amend the Laws that Deal with the Protection of Natural Resources

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

Sec. 1. 38 MRSA §480-Q, sub-§2, as amended by PL 1989, c. 430, §6, is further amended to read:

2. Maintenance and minor repair. Maintenance and minor repair of structures in ~~fragile mountain areas, or to structures above the high water line causing no additional intrusion of an existing structure into the great pond, river, stream or brook, wetland or sand dune; and maintenance and, on, over or adjacent to a protected natural resource and maintenance and minor repair of private crossings of a river, stream or brook,~~ provided that if:

A. Erosion control measures are taken to prevent sedimentation of the water;

B. The crossing does not block fish passage in the water course; ~~and~~

C. There is no additional intrusion into the ~~river, stream or brook.~~ protected natural resource; and

D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 18 months prior to the repair.