

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

B. Operates a motor vehicle with ~~a blood alcohol level of 0.02% or more~~ any amount of alcohol in the blood.

Sec. 2. 29-A MRSA §2472, sub-§§4 and 5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

4. Duty to submit to test. A person under 21 years of age who operates a motor vehicle shall submit to a chemical test if there is probable cause to believe that person has operated a motor vehicle with ~~a blood alcohol level of 0.02% or more~~ any amount of alcohol in the blood. The provisions of subchapter IV apply, except the suspension must be for a period of one year.

5. Hearing; stay; issues. If a hearing is requested in accordance with section 2483, the suspension under subsection 3, paragraph B is stayed pending the outcome of the hearing. The scope of a hearing must include whether:

A. There was probable cause to believe that the person was under 21 years of age and operated a motor vehicle ~~while having 0.02% or more by weight of alcohol in the blood~~ with any amount of alcohol in the blood;

B. The person operated a motor vehicle ~~while having 0.02% or more by weight of alcohol in the blood~~ with any amount of alcohol in the blood; and

C. The person was under 21 years of age.

See title page for effective date.

CHAPTER 27

H.P. 165 - L.D. 213

An Act to Change the Activities Requiring a Permit from the Department of Environmental Protection

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Sec. 1. 38 MRSA §480-Q, sub-§2, as amended by PL 1993, c. 617, §1, is repealed and the following enacted in its place:

2. Maintenance and repair. Maintenance and repair of a structure in, on, over or adjacent to a protected natural resource and maintenance and repair of a private crossing of a river, stream or brook if:

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

B. Crossings do not block fish passages in water courses;

C. There is no additional intrusion into the protected natural resource; and

D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to the repair, or if the structure has been officially included in or is considered by the Maine Historical Preservation Commission eligible for listing in the National Register of Historic Places, the dimensions of the repaired structure do not exceed the dimensions of the historic structure.

This subsection does not apply to: the repair of more than 50% of a structure located in a coastal sand dune system; the repair of more than 50% of a dam, unless that repair has been approved by a representative of the United States Natural Resources Conservation Service; or the repair of more than 50% of any other structure, unless the municipality in which the proposed activity is located requires a permit for the activity through an ordinance adopted pursuant to the mandatory shoreland zoning laws and the application for a permit is approved by the municipality;

See title page for effective date.

CHAPTER 28

H.P. 317 - L.D. 438

An Act to Amend the Law Regarding Minimum Sentences for Class C Crimes Involving the Use of a Firearm against a Person

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

Sec. 1. 17-A MRSA §1252, sub-§5, as amended by PL 1979, c. 701, §30, is further amended to read:

5. Notwithstanding any other provision of this code, except as provided in this subsection, if the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which ~~shall~~ may not be suspended, ~~shall be~~ is as follows: When the sentencing class for ~~such the~~ such the crime is Class A, the minimum term of imprisonment ~~shall be~~ is 4 years; when the sentencing class for ~~such the~~ such the crime is Class B, the minimum term of imprisonment ~~shall be~~ is 2 years; and when the sentencing class for ~~such the~~ such the crime is Class C, the minimum term of imprisonment ~~shall be~~ is one year. For purposes of this subsection, the applicable sentencing class ~~shall be~~ is determined

in accordance with subsection 4. This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.

See title page for effective date.

CHAPTER 29

S.P. 57 - L.D. 86

An Act to Increase the Fee Amount that an Unorganized Territory is Allowed to Retain as an Agent of the State Collecting Excise Taxes

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

Sec. 1. 36 MRSA §1487, sub-§2, as amended by PL 1993, c. 557, §1, is further amended to read:

2. State Tax Assessor. In the unorganized territory, the State Tax Assessor shall appoint agents to collect the excise tax. Agents, including municipalities designated as agents, are allowed a fee of \$2 ~~\$4 for each tax receipt issued, except that municipalities designated as agents are allowed a fee of \$4 for each tax receipt issued.~~ Agents shall deposit the remainder on or before the 20th day of each month following receipt with the Treasurer of State. The Treasurer of State shall make quarterly payments to each county in an amount that is equal to the receipts for that period from each county. Those payments must be made at the same time as payments under section 1606. County receipts under this section must be deposited in the county's unorganized territory fund.

See title page for effective date.

CHAPTER 30

H.P. 62 - L.D. 98

An Act to Allow Wine Tasting in Fine Wine Stores and at Special Festivals

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

Whereas, a wine taste-testing festival held this summer would increase revenues to the State and its tourist industry; and

Whereas, the changes in taste-testing laws need to be implemented immediately so that planning for a summer taste-testing festival can begin; 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. 28-A MRSA §1052-A, sub-§1, as enacted by PL 1993, c. 259, §1, is amended to read:

1. Special taste-testing festival license. Manufacturers of malt liquor and wine licensed under section 1355 and holders of an equivalent license from another state may apply for an additional license to participate in a special taste-testing festival under this section. The special taste-testing festival license is valid for no more than 3 consecutive days and is issued annually.

Sec. 2. 28-A MRSA §1052-A, sub-§5, ¶¶D and E, as enacted by PL 1993, c. 259, §1, are amended to read:

D. A person may not be charged a fee for any malt liquor or wine served as part of a taste-testing activity;

E. Each out-of-state manufacturer is limited to serving 200 gallons of malt liquor or wine; and

Sec. 3. 28-A MRSA §1052-A, sub-§6, as enacted by PL 1993, c. 259, §1, is amended to read:

6. Excise taxes; premiums. ~~Each~~ A licensee must pay the appropriate excise taxes and premiums under sections 1652 and 1703 before the scheduled calendar date of the special taste-testing festival.

Sec. 4. 28-A MRSA §1205, sub-§1, as enacted by PL 1989, c. 488, is amended to read:

1. Taste testing on off-premise retail licensee's premises; fine wine stores. Subject to the conditions in subsection 2, the commission may authorize an off-premise retail licensee, 50% or more of whose gross income is derived from the sale of wine or malt liquor, or a fine wine store to conduct taste testings of wine on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited.

Sec. 5. 28-A MRSA §1205, sub-§2, ¶E, as enacted by PL 1989, c. 488, is amended to read: