

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

included in a policy approved in accordance with chapter 68 giving a policyholder or certificate holder a right to purchase or increase coverage at a later date may be issued with benefits consistent with chapter 68 after January 1, 2000.

See title page for effective date.

CHAPTER 293

H.P. 154 - L.D. 216

An Act to Prohibit the Transportation of Open Containers that Contain Liquor

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

Sec. 1. 28-A MRSA §1051, sub-§5, as enacted by PL 1997, c. 306, §1, is amended to read:

5. Transporting partially consumed bottles. A partially consumed bottle of table wine that is removed from the premises under subsection 4 must be ~~securely sealed and bagged by the licensee, either to be in conformance with any applicable open container law for those patrons on foot or transported in the trunk of a motor vehicle. If the vehicle is not equipped with a trunk, the securely sealed opened table wine bottle may be transported in that compartment of the vehicle that is the least accessible to the driver transported in compliance with Title 29-A, section 2112-A, if transported by motor vehicle, or securely sealed and bagged if transported on foot or by means other than a motor vehicle.~~

Sec. 2. 29-A MRSA §2112, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 3. 29-A MRSA §2112-A is enacted to read:

§2112-A. Open container; drinking in a vehicle prohibited

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alcohol" means spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquors, intended for human consumption that contains more than 1/2 of 1% of alcohol by volume.

B. "Open alcoholic beverage container" means a bottle, can or other receptacle that contains any amount of alcohol, and that is open or has a bro-

ken seal, or the contents of which are partially removed.

C. "Passenger area" means the area designed to seat the operator and passengers while a motor vehicle is in operation and any area readily accessible to the operator or a passenger, including the glove compartment, while in their seating positions.

D. "Public way" means a way, including a right-of-way, owned and maintained by the State, a county or a municipality over which the general public has a right to pass.

2. Violation. The operator of a vehicle on a public way is in violation of this section if the operator or a passenger in the passenger area of the vehicle:

A. Consumes alcohol; or

B. Possesses an open alcoholic beverage container.

3. Exceptions. An operator of a vehicle is not in violation of this section if:

A. The operator or a passenger possesses an open alcoholic beverage container in a vehicle not equipped with a trunk if the open alcoholic beverage container is located behind the last upright seat of the vehicle or in an area not normally occupied by the operator or passenger;

B. A passenger transported for a fee consumes alcohol or possesses an open alcoholic beverage container in a vehicle designed for the for-hire transportation of passengers other than a taxicab;

C. A passenger possesses an open alcoholic beverage container or a passenger consumes alcohol in the living quarters of a motor home, trailer, semitrailer or truck camper; or

D. The operator or the operator's employer holds a valid off-premise catering license issued under Title 28-A, section 1052 and the alcohol is being transported either to or from a catered event.

See title page for effective date.

CHAPTER 294

H.P. 211 - L.D. 289

An Act to Amend the Uniform Unclaimed Property Act concerning Tangible Property Held by Landlords or by State Institutions

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

Sec. 1. 33 MRSA §1954, as enacted by PL 1997, c. 508, Pt. A, §2 and affected by §3, is repealed and the following enacted in its place:

§1954. Property in safekeeping depository or held by landlord or state institution

1. Contents of safe deposit box or other safe-keeping depository. Tangible property held in a safe deposit box or other safekeeping depository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law are presumed abandoned if the property and proceeds remain unclaimed by the owner for more than 5 years after expiration of the lease or rental period on the box or other depository.

2. Property held by landlords. Tangible property held by a landlord that has been left on the premises after a tenant has terminated tenancy or vacated the premises is presumed abandoned if it has not been claimed within 14 days after written notice has been sent by first class mail with proof of mailing to the last known address of the tenant or if the tenant has not taken possession of the property within 10 days after claiming ownership.

A. Tangible property presumed to be abandoned under this subsection that has a fair market value of \$500 or more must be reported to the administrator as required by this Act. If the administrator refuses delivery of the property and authorizes a holder to sell that property, the landlord shall sell the property in a commercially reasonable manner in accordance with any requirements imposed by the administrator.

(1) After the sale of the property, the landlord may apply any proceeds from the sale to unpaid rent, damages to the premises and the expenses of storage, notice and sale. Any balance and the records of the sale must be reported and delivered to the administrator in accordance with the provisions of this Act.

(2) The record of the sale must include the name of the owner prior to the sale, a description of the property, the proceeds of the sale, any deductions authorized under subparagraph (1) and the balance remaining.

B. Tangible property that has a fair market value of less than \$500 that is left by a tenant may be disposed of by the landlord in accordance with Title 14, section 6013.

3. Property held by state institutions. Tangible property, other than prescription drugs, held by an institution under the control of the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department of Corrections that has been left by a patient or inmate is presumed abandoned if it is not claimed within one year after the patient's or inmate's discharge from or death while residing in the institution. Prescription drugs held by an institution under the control of the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department of Corrections that are left by a patient or inmate are presumed abandoned upon the death of the patient or inmate or if the drugs are not claimed within 30 days of the patient's or inmate's discharge from the institution.

A. Tangible property other than prescription drugs presumed abandoned under this subsection may be sold by the head of the institution at public auction.

(1) At least 14 days prior to the sale, the head of the institution shall give notice to the owner:

(i) Either personally or by certified mail; or

(ii) If that notice cannot be given after one reasonable attempt to do so, by publication in a newspaper of general circulation in the county in which the institution is located.

The notice must give a description of the property, the institution at which it was left, the time and place of the sale and the right to claim the property.

(2) The owner may claim this property at any time prior to the actual sale.

(3) After sale, the head of the institution shall record the name of the owner prior to the sale, a description of the property, the institution at which it was left and the proceeds of the sale.

(4) The proceeds of the sale and the records of the sale must be reported and delivered to the administrator in the same manner as property presumed abandoned is reported and delivered.

B. Prescription drugs that are presumed abandoned under this subsection must be disposed of in accordance with rules established by the Board of Commissioners of the Profession of Pharmacy.

Sec. 2. 33 MRSA §1954-A is enacted to read:

§1954-A. Retention of property with historic value

1. Historic significance. The administrator may retain any tangible property delivered to the administrator, if the property has exceptional historic significance. The historic significance must be certified by the administrator with advice from the State Historian, the State Archivist, the State Librarian and the Director of the Maine State Museum. A statement of the appraised value of the property must be filed with the certification. Historic property retained under this subsection must be stored or displayed at the Maine State Museum, the Maine State Library or other suitable locations.

2. Owner's property rights. Nothing in this section affects the right of the owner to recover the property or its value.

See title page for effective date.

CHAPTER 295

H.P. 779 - L.D. 1102

**An Act to Reduce the Limitations on
Nonprofit Organizations Holding
Games of Chance**

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

Sec. 1. 17 MRSA §332, sub-§4, ¶B, as repealed and replaced by PL 1987, c. 314, §2, is amended to read:

B. No other licensee may operate a game of chance on premises to which the general public has access. In any room where a licensed game of chance is being conducted, there ~~shall~~ must be at least one member of the licensee present in that room for every 2 nonmembers who are present. That member ~~shall~~ must have been a member of the licensee for at least one year. ~~No~~ A member of the licensee, either directly or through another member or guest, may not stake or risk something of value in the licensee's game of chance unless the member has been a member, as defined in section 330, subsection 3-B, of the licensee for at least 14 days not including the day of admission into membership.

A bona fide nonprofit organization may operate a licensed game of chance, to which the general public has access, once every ~~6~~ 3 months for a period not to exceed ~~3~~ 2 consecutive days. The licensed game of chance may be operated at any

location described in the license and ~~shall~~ may be conducted only by members of the licensee.

See title page for effective date.

CHAPTER 296

H.P. 931 - L.D. 1308

**An Act to Clarify Roles and
Responsibilities in the Child
Development Services System**

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

Whereas, this Act ensures that early intervention services and free appropriate public education services for eligible children with disabilities will continue to be made available; 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. 20-A MRSA §7725, sub-§4, ¶¶C
and D,** as enacted by PL 1997, c. 534, §6, are repealed and the following enacted in their place:

C. For children from birth to under age 3:

(1) Developmental delays, as measured by both diagnostic instruments that are criterion-based or norm-referenced and appropriate procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; or adaptive development, with the delay being such that the child needs early intervention services; or

(2) A diagnosed physical or mental condition that has a high probability of resulting in developmental delay, with the condition being such that the child needs early intervention services; or

D. For children age 3 to under age 6, evaluated in accordance with 34 Code of Federal Regulations, 300.530-534, as measured by both standardized, norm-referenced diagnostic instru-