

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 11, 2000**

**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**  
**2000**

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect on April 1, 2000.

Effective April 1, 2000.

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**CHAPTER 673**

**S.P. 886 - L.D. 2301**

**An Act to Establish a Targeted Need Teacher Certificate**

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

**Sec. 1. 20-A MRSA §13011, sub-§9** is enacted to read:

9. Targeted need certificate. The state board shall adopt rules that establish criteria under which a targeted need area certificate may be issued. This certificate may be issued only to a person holding a bachelor's degree and teaching in a teacher shortage area. The teacher shortage area is determined by the commissioner. Rules adopted pursuant to this subsection are major substantive rules in accordance with Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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**CHAPTER 674**

**H.P. 1744 - L.D. 2450**

**An Act to Restrict Passengers in the Vehicle of a Newly Licensed Driver**

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

**Sec. 1. 29-A MRSA §101, sub-§28-A** is enacted to read:

28-A. Immediate family member. "Immediate family member" means a grandparent; parent, including stepparent; spouse; child; brother; or sister.

**Sec. 2. 29-A MRSA §1310** is enacted to read:

**§1310. Interim license**

A person under 18 years of age who has been issued a driver's license may not carry passengers other than immediate family members unless accompanied by a licensed operator who meets the requirements of section 1304, subsection 1, paragraph E. This restriction is in effect for a period of 90 days from license issuance.

**Sec. 3. Effective date.** This Act takes effect August 1, 2000.

See title page for effective date.

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**CHAPTER 675**

**H.P. 1870 - L.D. 2606**

**An Act to Amend the Laws Regarding Foster Parents**

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

**Whereas,** the section of law allowing foster parents, preadoptive parents or relatives providing care for a child to attend a review or hearing will be repealed on July 1, 2000; and

**Whereas,** this legislation needs to be an emergency so that it will take effect before July 1, 2000; 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. 22 MRSA §4005-C, 2nd ¶,** as enacted by PL 1999, c. 189, §1, is amended to read:

The foster parent of a child, if any, and any pre-adoptive parent or relative providing care for the child may attend a review or hearing in its entirety under this section unless specifically excluded by decision of the presiding judge. ~~This paragraph is repealed July 1, 2000.~~

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

Effective April 12, 2000.

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**CHAPTER 676**

**S.P. 992 - L.D. 2550**

**An Act to Ensure Cost Effective and Safe Highways in the State**

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

**Sec. 1. 23 MRSA §704**, as amended by PL 1999, c. 473, Pt. C, § 1, is repealed and the following enacted in its place:

**§704. Entrances to highways regulated**

It is unlawful to construct or maintain any driveway, entrance or approach within the right-of-way of any state highway or state aid highway, as defined in section 53, that lies outside the compact area of an urban compact municipality, as defined in section 754, without a written permit from the Department of Transportation or, if within the compact area, without a written permit from the proper municipal officials. The right-of-way is considered the full width of the right-of-way as laid out by the State, the county or the municipality.

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

A. "Arterial highway" means a highway providing long-distance connections as approved by the Federal Highway Administration pursuant to 23 Code of Federal Regulations, Section 470.105(b)(1999).

B. "Forest management activities" includes timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands and other similar or associated activities.

C. "Forest management roads" includes a route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and used primarily for forest management activities, including associated log yard and winter haul roads.

**2. State highways and state aid highways.** The Department of Transportation is directed and municipalities are authorized to adopt rules and regulations for the design, location and construction of driveways, entrances and approaches on state highways and state aid highways to adequately protect and promote the safety of the traveling public and maintain highway right-of-way drainage.

**3. Arterial highways.** For arterial highways that lie outside the compact area of an urban compact municipality, the Department of Transportation shall limit the number, spacing, design, location and construction of driveways, entrances or approaches to maintain existing posted speeds and ensure safe travel.

**4. Unsafe arterial highways.** For those arterial highway corridors with driveway-related crash-per-mile rates that exceed the 1999 statewide average for arterial highways of the same posted speed limit, the permit applicant must avoid, minimize or mitigate any deterioration of safety or reduction of the posted speed limit.

**5. Exemptions.** A permit is not required for the following:

A. Any existing driveway, entrance or approach unless its grade, location or use is changed; or

B. A driveway, entrance or approach used solely for forest management purposes provided that construction and maintenance follows departmental permit by rule requirements. A written permit is required if the use of that driveway, entrance or approach is changed.

**6. Access denied.** The Department of Transportation and the municipalities shall deny ingress to and egress from property abutting the highway when access rights have been acquired by the department.

**7. Reconsideration.** In writing, the Commissioner of Transportation shall either approve an application under this section setting forth any conditions or terms required for approval or disapprove the application setting forth the reasons for disapproval. An applicant has 30 days from the receipt of this decision to request reconsideration. This request must outline the findings and conclusions of the commissioner to which that person objects, the basis of the objections and the nature of the relief requested. Nothing in this section may be construed to limit a person's lawful right to appeal a final agency action.

**8. Violation.** A violation of this section or the rules adopted pursuant to this section is punishable by a fine of not more than \$100 per day per violation. The fine begins to accrue 30 days after the Department of Transportation sends notice of the violation to the landowner. The department shall establish procedures for administrative enforcement of this section, establishing fines and reconsideration and appeals of enforcement actions.

**9. Rules.** Rules adopted by the Department of Transportation pursuant to subsection 2 are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. Rules adopted pursuant to subsections 3 and 4, subsection 5, paragraph B and subsection 8 are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 2. Major substantive rules.** The Department of Transportation may not enforce the Maine Revised Statutes, Title 23, section 704, subsections 3

and 4, subsection 5, paragraph B and subsection 8 until departmental rules implementing those subsections have been finally adopted pursuant to Title 5, section 8072, subsection 8.

**Sec. 3. "Smart growth" assistance to municipalities.** The Department of Transportation, Bureau of Planning, Research and Community Services shall work cooperatively with the State Planning Office and regional councils to provide training, technical assistance and information to municipalities on road planning, road maintenance, sidewalks and neighborhood involvement to assist municipalities in addressing "smart growth" by preserving traditional downtowns, walkable communities and compact neighborhoods. By January 2, 2001, the Department of Transportation shall develop model subdivision and road ordinances that provide several options to municipalities for construction standards for new residential streets, including options for safe yet low-cost design standards.

**Sec. 4. Strategic planning; transit.** The Department of Transportation shall begin a strategic planning process to address challenges such as administrative streamlining of transit funding, marketing and redesign of transit to appeal to a wider range of customers, innovative financing of transit projects, connectivity to airports and rail and other issues. The department shall present a status report to the joint standing committee of the Legislature having jurisdiction over transportation matters during the First Regular Session of the 120th Legislature. The department may pursue federal funds to assist with this planning process.

**Sec. 5. Funding for transit projects.** The Department of Transportation shall work with the Department of Human Services and the Department of Environmental Protection to identify funding sources for innovative transit and transportation projects that address sprawl and air quality issues. The departments may pursue federal grants or funds to assist with these projects.

See title page for effective date.

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## CHAPTER 677

H.P. 1835 - L.D. 2571

### An Act to Promote Microbreweries and Wineries

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

**Sec. 1. 28-A MRS §1052-A**, as amended by PL 1997, c. 373, §86, is repealed.

**Sec. 2. 28-A MRS §1052-B** is enacted to read:

**§1052-B. Special taste-testing festival license**

**1. Special taste-testing festival license.** Manufacturers of malt liquor or wine licensed as small breweries or farm wineries under section 1355 may apply jointly 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 may be issued once annually.

**2. Fee.** The license fee for the special taste-testing festival license is \$20 for each manufacturer of malt liquor and each manufacturer of wine.

**3. Application.** The licensees must apply jointly for a special taste-testing festival license by filing a written application with the bureau at least 5 days, not including Saturdays, Sundays or legal holidays, before the event. The application must include the following:

A. Name and address of each licensee;

B. Title and purpose of the event;

C. Date, time and duration of the event;

D. Location of the event;

E. The method by which the licensees will monitor the number of samples served to each person attending the festival; and

F. Approval by the municipal officers or a municipal official designated by the municipal officers of the municipality where the proposed special taste-testing festival will be located, which, notwithstanding section 653, may be granted without public notice.

**4. Ruling on application.** Upon receipt of the application, the bureau shall immediately approve or deny the application. The bureau shall advise the applicants that the license may be revoked or suspended under chapter 33.

**5. Conditions on taste-testing festivals.** The following conditions apply to taste-testing festivals under this section.

A. Licensees may not serve more than 12 4-ounce samples or any number of samples that total more than 48 ounces to any one person in one day.

B. Minors are prohibited from attending the special taste-testing festival unless accompanied by a parent or guardian.