

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

ing the economic development plans of a municipality; 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 §701, sub-§1**, as amended by PL 1997, c. 373, §64, is further amended to read:

**1. Location within 300 feet of churches and schools.** Except as provided in ~~paragraph B paragraphs B and C~~, the bureau may not issue a new license for the sale of liquor to be consumed on the premises to new premises within 300 feet of a public or private school, school dormitory, church, chapel or parish house in existence as such at the time the application for the new license is made.

B. The bureau may after holding a public hearing near the proposed location issue licenses to premises that are either in or within 300 feet of a church, chapel, parish house or postsecondary school.

C. The restriction in this subsection does not apply if a public or private school, school dormitory, church, chapel or parish house:

(1) Locates in a commercial zone that includes restaurants or bars as permitted uses and that had been established pursuant to a zoning ordinance as defined in Title 30-A, section 4301, subsection 15-A prior to the public or private school, school dormitory, church, chapel or parish house locating in the commercial zone; or

(2) Is located in a downtown as defined in Title 30-A, section 4301, subsection 5-A.

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

Effective June 2, 2005.

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**CHAPTER 270**

**H.P. 990 - L.D. 1426**

**An Act To Amend Certain Milk and Milk Products Laws**

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

**Sec. 1. 7 MRSA §2900, sub-§5**, as enacted by PL 1999, c. 679, Pt. A, §1, is repealed.

**Sec. 2. 7 MRSA §2900, sub-§6**, as enacted by PL 1999, c. 679, Pt. A, §1, is amended to read:

**6. Heat treated.** "Heat treated" or "heat-treated" means processed by heating every particle of milk to a temperature of 145 degrees Fahrenheit for at least 30 minutes ~~using a double boiler~~.

**Sec. 3. 7 MRSA §2902-B**, as repealed and replaced by PL 2003, c. 452, Pt. B, §18 and affected by Pt. X, §2, is amended to read:

**§2902-B. Sale of unpasteurized milk and milk products**

**1. Sale of unpasteurized milk or milk product.** A person may not sell unpasteurized milk or a product made from unpasteurized milk, including heat-treated cheese, unless the label on that product contains the words "not pasteurized."

**2. Sale of unpasteurized milk or milk product at eating establishment.** A Except as provided in subsection 4, a person may not sell unpasteurized milk or a product made from unpasteurized milk at an eating establishment as defined in Title 22, section 2491, subsection 7.

**3. Exception.** This section does not apply to ~~farm cheese or to~~ cheese that has been aged at a temperature above 35 degrees Fahrenheit for at least 60 days prior to sale.

**4. Sale of heat-treated cheese at eating establishment.** Notwithstanding subsection 2, heat-treated cheese may be offered for consumption at an eating establishment as defined in Title 22, section 2491, subsection 7 provided the menu identifies items on the menu that contain or are made with heat-treated cheese and provides notice that heat-treated cheese is not pasteurized using the words "not pasteurized" on the menu.

**Sec. 4. 7 MRSA §2904-A**, as amended by PL 1999, c. 418, §3, is repealed.

**Sec. 5. 7 MRSA §2906**, as amended by PL 1999, c. 679, Pt. A, §9, is further amended to read:

**§2906. Civil suits**

The district attorney for the county in which any violation of sections 2901-A to ~~2904-A~~ 2903-B has occurred shall, if requested, assist the commissioner in suits arising under those sections.

**Sec. 6. 7 MRSA §2907**, as amended by PL 1999, c. 679, Pt. A, §10, is further amended to read:

**§2907. Jurisdiction**

The District Court and the Superior Court have concurrent jurisdiction in cases arising under sections 2901-A to ~~2904-A~~ 2903-B.

**Sec. 7. 7 MRSA §2908-A, sub-§1**, as enacted by PL 2003, c. 452, Pt. B, §20 and affected by Pt. X, §2, is amended to read:

**1. Violation.** A firm, person, corporation or society may not sell milk or milk products in the State without the license or permits provided in sections 2901-C and 2902-A, violate sections 2901-A to ~~2904-A~~ 2903-B or neglect, fail or refuse to comply with those sections and the rules, regulations and standards of identity and quality issued pursuant to section 2910.

**Sec. 8. 7 MRSA §2910-A**, as enacted by PL 1999, c. 679, Pt. A, §13, is amended to read:

**§2910-A. Injunctions by commissioner**

In addition to any other remedy for the enforcement of sections 2901-C to ~~2904-A~~ 2903-B or a rule, order or decision by the commissioner adopted or issued pursuant to this chapter, the commissioner is authorized to apply to the Superior Court for a preliminary or permanent injunction restraining any person from violating any provision of sections 2901-C to ~~2904-A~~ 2903-B or any rule, order or decision of the commissioner adopted or issued pursuant to this chapter. The Superior Court has jurisdiction upon hearing and for good cause shown to grant a preliminary or permanent injunction. In case of violation of an injunction issued under this section, the court may cite the person for contempt of court. The existence of either civil or criminal remedies is not a defense in this proceeding. The commissioner is not required to give or post a bond when making an application for an injunction under this section.

See title page for effective date.

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**CHAPTER 271**

**S.P. 247 - L.D. 749**

**An Act To Limit the Political Activity  
of the Members of the Commission  
on Governmental Ethics and Election  
Practices**

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

**Sec. 1. 1 MRSA §1002, sub-§2**, as amended by PL 1991, c. 86, is further amended to read:

**2. Qualifications.** The members of the commission must be persons of recognized judgment, probity and objectivity. A person may not be appointed to this commission who is a member of the Legislature or who was a member of the previous Legislature, ~~or~~ who was a declared candidate for an elective county, state or federal office within 2 years prior to the appointment, ~~or~~ who now holds an elective county, state or federal office, ~~or~~ who is an officer of a political committee, party committee or political action committee or who holds a position in a political party or campaign.

**Sec. 2. 1 MRSA §1002, sub-§6** is enacted to read:

**6. Prohibited activities.** A member of the commission may not engage in political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure or endorse a political candidate. This prohibition does not apply to fund-raising for campaigns or endorsement of candidates at the county or municipal level or out-of-state nonfederal elections.

See title page for effective date.

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**CHAPTER 272**

**H.P. 1019 - L.D. 1454**

**An Act To Amend the Laws  
Regarding the School Revolving  
Renovation Fund**

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

**Whereas**, many school administrative units have an immediate need to submit proposals for approval under the School Revolving Renovation Fund for reimbursement of costs incurred for first priority status health and safety projects approved by the Commissioner of Education; and

**Whereas**, it is necessary to revise the provisions of the statutes to allow such reimbursement for these projects; 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,