

# 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**

B-3. Being the parent, foster parent, guardian or other person having the care and custody of the child, knowingly deprives the child of necessary health care, with the result that the child is placed in danger of serious harm; or

**Sec. 3. 17-A MRSA §557**, as amended by PL 1995, c. 110, §2, is further amended to read:

**§557. Other defenses**

For the purposes of this chapter, a person who in good faith provides treatment for a child or dependent person by spiritual means through prayer ~~alone~~ may not for that reason alone be ~~deemed~~ determined to have knowingly endangered the welfare of that child or dependent person.

**Sec. 4. 22 MRSA §4002, sub-§6, ¶B**, as enacted by PL 1979, c. 733, §18, is amended to read:

B. Deprivation of adequate food, clothing, shelter, supervision or care, ~~including health care when that deprivation causes a threat of serious harm;~~

**Sec. 5. 22 MRSA §4002, sub-§6, ¶B-1** is enacted to read:

B-1. Deprivation of necessary health care when the deprivation places the child in danger of serious harm;

**Sec. 6. 22 MRSA §4013**, as amended by PL 1983, c. 343, §2, is repealed.

See title page for effective date.

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**CHAPTER 374**

**H.P. 918 - L.D. 1320**

**An Act To Amend the Child and Family Services and Protection Act**

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

**Sec. 1. 22 MRSA §4003, sub-§3-A** is enacted to read:

**3-A. Kinship placement.** Place children who are taken from the custody of their parents with an adult relative when possible;

See title page for effective date.

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**CHAPTER 375**

**S.P. 593 - L.D. 1611**

**An Act To Clarify That Certain Maine Landowner Liability Protection Laws Apply to Certain Railroad Properties, Railroad Rights-of-way and Utility Corridors**

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

**Sec. 1. 14 MRSA §159-A, sub-§1, ¶A**, as amended by PL 1993, c. 622, §1, is further amended to read:

A. "Premises" means improved and unimproved lands, private ways, roads, any buildings or structures on those lands and waters standing on, flowing through or adjacent to those lands. "Premises" includes railroad property, railroad rights-of-way and utility corridors to which public access is permitted.

See title page for effective date.

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**CHAPTER 376**

**S.P. 476 - L.D. 1378**

**An Act To Amend the Medical Liability Laws Concerning Communications of Sympathy or Benevolence**

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

**Sec. 1. 24 MRSA §2907** is enacted to read:

**§2907. Communications of sympathy or benevolence**

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

A. "Relative" means an alleged victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister or spouse's parents. "Relative" includes these relationships that are created as a result of adoption. In addition, "relative" includes any person who has a domestic partner relationship with an alleged victim. As used in this paragraph, "domestic partner" is a person who has registered as a domestic partner pursuant to Title 22, section 2710.

B. "Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under an advance directive or any person recognized in law or custom as a person's agent.

C. "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

**2. Evidence of admissions.** In any civil action for professional negligence or in any arbitration proceeding related to such civil action, any statement, affirmation, gesture or conduct expressing apology, sympathy, commiseration, condolence, compassion or a general sense of benevolence that is made by a health care practitioner or health care provider or an employee of a health care practitioner or health care provider to the alleged victim, a relative of the alleged victim or a representative of the alleged victim and that relates to the discomfort, pain, suffering, injury or death of the alleged victim as the result of the unanticipated outcome is inadmissible as evidence of an admission of liability or as evidence of an admission against interest. Nothing in this section prohibits the admissibility of a statement of fault.

See title page for effective date.

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**CHAPTER 377**

**S.P. 607 - L.D. 1641**

**An Act To Create a Small Brewer Distiller License**

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

**Sec. 1. 28-A MRSA §1355, sub-§§8 and 9** are enacted to read:

**8. Small brewer distiller license.** The following conditions apply to small brewer distiller licenses.

A. To be eligible for a small brewer distiller license, a person must hold a small breweries license under subsection 2 and obtain a basic permit for distilling, rectifying, blending and bottling spirits from the federal Department of the Treasury, Bureau of Alcohol, Tobacco, Firearms and Explosives.

B. A holder of a small brewer distiller license may produce distilled spirits in an amount not to exceed 30,000 gallons per year.

C. A holder of a small brewer distiller license may hold up to 3 Maine retail licenses for the sale of liquor to be produced at the distillery and

to be consumed on the premises at a connected establishment. For purposes of this paragraph, "connected establishment" means a Class A restaurant or Class A restaurant/lounge that is owned in whole or in part by the holder of the small brewer distiller license. All records of the small brewer distiller license must be kept separate from the records of the retail licensee.

D. Spirits produced by a holder of a small brewer distiller license must be sold to the State and are subject to the listing, pricing and distribution provisions of this Title.

E. A holder of a small brewer distiller license may permit sampling of the spirits on the distillery premises by employees for quality control purposes.

F. A holder of a small brewer distiller license may list on a product's label and in its advertising the ingredients and the product's average percentage of the recommended daily allowances of nutritional requirements.

G. The holder of a small brewer distiller license is subject to all inspections and other oversight applied to large distilleries in the State by the State Government and the Federal Government.

**9. Small brewer distiller licensee that exceeds production limit; license renewal.** The bureau, upon application by the holder of a small brewer distiller license whose distillery has produced distilled spirits in an amount that exceeds 30,000 gallons in one year, may renew that holder's small brewer distiller license for only one additional year.

**Sec. 2. 28-A MRSA §1551, sub-§3, ¶¶F and G,** as enacted by PL 1987, c. 342, §114, are amended to read:

F. Maine farm winery, includes bottling (one year).....\$50; and

G. Small Maine brewery, includes bottling (one year).....\$50; and

**Sec. 3. 28-A MRSA §1551, sub-§3, ¶H** is enacted to read:

H. Small brewer distiller, includes bottling (one year) .....\$100.

See title page for effective date.

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