

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.

Penmor Lithographers
Lewiston, Maine
2005

A-1. "Confidential communications" means all information, whether written or oral, transmitted between a victim and a domestic violence advocate in the course of the working relationship. "Confidential communications" includes, but is not limited to, information received or given by the advocate in the course of the working relationship, advice, records, reports, notes, memoranda, working papers, electronic communications, case files, history and statistical data, including name, date of birth and social security number, that personally identify the victim.

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

Effective June 14, 2005.

CHAPTER 389

H.P. 613 - L.D. 862

An Act To Improve the Collection of Restitution and Supervision Fees

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

Sec. 1. 17-A MRSA §1176 is enacted to read:

§1176. Confidentiality of victim records

Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined must be kept confidential and may be disclosed only to a state agency if necessary to carry out the statutory function of that agency or to a criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile criminal justice. In no case may a victim's request for notice of release be disclosed outside the agency to which the defendant is committed and the office of the attorney for the State with which the request was filed.

Sec. 2. 17-A MRSA §1204, sub-§1-A, as amended by PL 1995, c. 502, Pt. F, §11, is further amended to read:

1-A. The court shall attach as a condition of probation that the convicted person pay, through the Department of Corrections, a supervision fee of between \$10 and \$50 per month, as determined by the court, for the term of probation. Notwithstanding the attachment of supervision fee conditions on more than one sentence, a person on probation on concurrent sentences is required to pay only one supervision fee. In determining the amount of the fee, the court shall

take into account the financial resources of the convicted person and the nature of the burden its payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fee. When a person on probation fails to pay the supervision fee, the court may revoke probation as specified in section 1206, unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fee and shall issue an order attaching a specified portion of money received by or owed to the person on probation until the total amount of the fee has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fee to as low as \$10 per month, but may not revoke the requirement to pay the fee unless the remaining period of probation is 30 days or less.

Sec. 3. 17-A MRSA §1323, sub-§1, as amended by PL 1983, c. 793, §1, is further amended to read:

1. Inquiry as to victim's financial loss. The court shall, whenever practicable, inquire of a prosecutor, ~~police~~ law enforcement officer or victim with respect to the extent of the victim's financial loss, and shall order restitution ~~where~~ when appropriate. The order for restitution shall designate the amount of restitution to be paid and the person or persons to whom the restitution will be paid.

Sec. 4. 17-A MRSA §1326-E is enacted to read:

§1326-E. Joint and several order

If the victim's financial loss has been caused by more than one offender, the order must designate that the restitution is to be paid on a joint and several basis, unless the court specifically determines that one defendant should not equally share the burden. The agency collecting restitution pursuant to a joint and several order may, after the full amount of restitution has been collected and disbursed to the victim, continue to collect payments from an offender who has not paid an equal share of the restitution and may disburse the money collected to any other offender who has paid more than an equal share of the restitution.

Sec. 5. 34-A MRSA §5404, sub-§2, ¶C, as amended by PL 1995, c. 502, Pt. F, §37, is further amended to read:

C. If the officer has probable cause to believe that a person under the supervision of the de-

partment has violated a condition of that person's probation or parole or intensive supervision, the officer may arrest that person;

Sec. 6. 34-A MRSA §5404, sub-§3, ¶E, as enacted by PL 1995, c. 502, Pt. F, §40, is amended to read:

E. Supervise the transition from institutional confinement for persons residing in a prerelease center if the commissioner directs; ~~and~~

Sec. 7. 34-A MRSA §5404, sub-§4, as enacted by PL 1983, c. 459, §6, is amended to read:

4. Records and reports. Keep records of each case and make reports as required; ~~and~~

Sec. 8. 34-A MRSA §5404, sub-§5, as amended by PL 1991, c. 27, is repealed.

Sec. 9. 36 MRSA §5276-A, sub-§6, as enacted by PL 1981, c. 504, §4, is amended to read:

6. Accounting. The creditor agency shall credit the account of the individual whose refund has been set off with the full amount of the setoff, including the collection fee retained by, or reimbursed to, the State Tax Assessor, except that the collection fee may not be credited to the account of an individual required to make restitution as provided in Title 17-A, section 1152, subsection 2-A.

See title page for effective date.

CHAPTER 390

S.P. 462 - L.D. 1335

An Act To Create a Small Distillery Off-premises License

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

Whereas, it is necessary that this legislation take effect immediately in order to allow affected in-state manufacturers to obtain off-premises licenses prior to the summer season; 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 §2, sub-§29-A is enacted to read:

29-A. Small distillery. "Small distillery" means a distiller that produces distilled spirits in an amount that does not exceed 50,000 gallons per year.

Sec. 2. 28-A MRSA §707, sub-§3, as amended by PL 1987, c. 342, §41, is further amended to read:

3. Retail licensee; interest in wholesaler or certificate of approval. ~~Not~~ Except as authorized in section 1012, subsection 5, a retail licensee may not have any financial interest, direct or indirect, in any:

A. Maine manufacturer's or wholesaler's license; or

B. Certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor or wine.

Sec. 3. 28-A MRSA §707, sub-§4, as repealed and replaced by PL 1987, c. 342, §42, is amended to read:

4. Certificate of approval holder or Maine manufacturer; interest in wholesaler or retail license. ~~Not~~ Except as authorized in section 1012, subsection 5, a certificate of approval holder or in-state manufacturer may not have any financial interest, direct or indirect, in any:

A. Maine wholesale license; or

B. Maine retail license.

Sec. 4. 28-A MRSA §1012, sub-§5 is enacted to read:

5. Small distillery off-premises license. Notwithstanding chapter 19, a person who holds a distiller license under section 1551, subsection 3, paragraph A and is a small distillery may obtain a small distillery off-premises license to sell spirits for consumption off the distillery premises, as long as the spirits are manufactured by the distillery, the distiller obtained the spirits for sale from the State and the spirits are sold on the premises of the distillery at the retail prices established by the alcohol bureau in accordance with its rules.

A. The small distillery off-premises license fee is \$100 annually.

B. A person may not hold more than one small distillery off-premises license.

C. A small distillery off-premises licensee shall keep records regarding off-premises sales sepa-