

# 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**

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**Sec. 8. 34-A MRSA §5404, sub-§5**, as amended by PL 1991, c. 27, is repealed.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

rate and apart from records relating to any other transaction in which the licensee engages.

D. The bureau, upon application by the holder of a small distillery off-premises license whose distillery has produced distilled spirits in an amount that exceeds 50,000 gallons in one year, may renew that holder's small distillery off-premises license for only one additional year.

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

Effective June 14, 2005.

## CHAPTER 391

H.P. 975 - L.D. 1411

### **An Act Regarding the Reporting of Hospital and Ambulatory Surgical Center Prices**

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

**Sec. 1. 22 MRSA §1718**, as corrected by RR 2003, c. 1, §16, is amended by adding at the end a new paragraph to read:

The Maine Health Data Organization, established in chapter 1683, shall adopt rules to establish criteria for the services and procedures and to standardize the manner of listing prices by hospitals and ambulatory surgical centers under this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 22 MRSA §8712, sub-§2**, as enacted by PL 2003, c. 469, Pt. C, §29, is amended to read:

**2. Average payments.** At a minimum, the organization, with advice from the Maine Health Data Processing Center as authorized in Title 10, section 681, shall develop and produce annual reports on ~~prices charged~~ average private-payer payments for the 15 most common services provided by health care facilities and health care practitioners, excluding emergency services. For health care facilities, the reports must include, but are not limited to, the average ~~price charged~~ private-payer payments per service per facility and total number of services per facility.

See title page for effective date.

## CHAPTER 392

H.P. 1141 - L.D. 1618

### **An Act Regarding Advertising by Drug Manufacturers and Disclosure of Clinical Trials**

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

**Sec. 1. 22 MRSA c. 605** is enacted to read:

## **CHAPTER 605**

### **PRESCRIPTION DRUG ADVERTISING**

#### **§2700-A. Prohibitions and required disclosures**

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

A. "Clinical trial" means a clinical investigation as defined by the federal Food and Drug Administration that involves any trial to test the safety or efficacy of a drug or biological product with one or more human subjects and that is intended to be submitted to, or held for inspection by, the federal Food and Drug Administration as part of an application for a research or marketing permit.

B. "Manufacturer of prescription drugs" or "manufacturer" means a manufacturer of prescription drugs or biological products or an affiliate of the manufacturer or a labeler that receives prescription drugs or biological products from a manufacturer or wholesaler and repackages those drugs or biological products for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 Code of Federal Regulations, 2027.20 (1999).

C. "Regulated advertisement" means the presentation to the general public of a commercial message regarding a prescription drug or biological product by a manufacturer of prescription drugs that is:

- (1) Broadcast on television or radio from a station that is physically located in the State;
- (2) Broadcast over the Internet from a location in the State; or
- (3) Printed in magazines or newspapers that are printed, distributed or sold in the State.

**2. Regulated advertisement requirement.** Beginning October 15, 2005, a manufacturer may not present or cause to be presented in the State a regu-